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California Statutes and Regulations for the Division of Land Resource Protection

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STATE OF CALIFORNIA
EDMUND G. BROWN, JR., *Governor*

NATURAL RESOURCES AGENCY
JOHN LAIRD, *Secretary*

DEPARTMENT OF CONSERVATION
DAVID BUNN, Ph.D., *Director*

Department of Conservation
Division of Land Resource Protection
John Lowrie, *Assistant Director*

State of California

CALIFORNIA STATUTES AND REGULATIONS for the DIVISION of LAND RESOURCE PROTECTION

California Department of Conservation
Division of Land Resource Protection

April 2016

Sacramento

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CHAPTER 1. Subdivided Lands
[11000-11200] (Chapter 1 added by Stats. 1943, Ch. 127.)

Article 2. **Investigation, Regulation and Report**
[11010-11023] (Article 2 added by Stats. 1943, Ch. 127.)

§ 11010. (a) Except as otherwise provided pursuant to subdivision (c) or elsewhere in this chapter, any person who intends to offer subdivided lands within this state for sale or lease shall file with the Bureau of Real Estate an application for a public report consisting of a notice of intention and a completed questionnaire on a form prepared by the bureau.

(b) The notice of intention shall contain the following information about the subdivided lands and the proposed offering:

(1) The name and address of the owner.

(2) The name and address of the subdivider.

(3) The legal description and area of lands.

(4) A true statement of the condition of the title to the land, particularly including all encumbrances thereon.

(5) A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any contracts intended to be used.

(6) A true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone, and sewerage facilities. For subdivided lands that were subject to the imposition of a condition pursuant to subdivision (b) of Section 66473.7 of the Government Code, the true statement of the provisions made for water shall be satisfied by submitting a copy of the written verification of the available water supply obtained pursuant to Section 66473.7 of the Government Code.

(7) A true statement of the use or uses for which the proposed subdivision will be offered.

(8) A true statement of the provisions, if any, limiting the use or occupancy of the parcels in the subdivision.

(9) A true statement of the amount of indebtedness that is a lien upon the subdivision or any part thereof, and that was incurred to pay for the construction of any onsite or offsite improvement, or any community or recreational facility.

(10) A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area,

assessment district, or community facilities district within the boundaries of which, the subdivision, or any part thereof, is located, and that is to pay for the construction or installation of any improvement or to furnish community or recreational facilities to that subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision, or any part thereof.

(11) A notice pursuant to Section 1102.6c of the Civil Code.

(12) (A) As to each school district serving the subdivision, a statement from the appropriate district that indicates the location of each high school, junior high school, and elementary school serving the subdivision, or documentation that a statement to that effect has been requested from the appropriate school district.

(B) In the event that, as of the date the notice of intention and application for issuance of a public report are otherwise deemed to be qualitatively and substantially complete pursuant to Section 11010.2, the statement described in subparagraph (A) has not been provided by any school district serving the subdivision, the person who filed the notice of intention and application for issuance of a public report shall immediately provide the bureau with the name, address, and telephone number of that district.

(13) (A) The location of all existing airports, and of all proposed airports shown on the general plan of any city or county, located within two statute miles of the subdivision. If the property is located within an airport influence area, the following statement shall be included in the notice of intention:

NOTICE OF AIRPORT IN VICINITY
This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

(B) For purposes of this section, an "airport influence area," also known as an "airport referral area," is the area in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission.

(14) A true statement, if applicable, referencing any soils or geologic report or soils and geologic reports that have been prepared specifically for the subdivision.

(15) A true statement of whether or not fill is used, or is proposed to be used, in the subdivision and a statement giving the name and the location of the public agency where information concerning soil conditions in the subdivision is available.

(16) On or after July 1, 2005, as to property located within the jurisdiction of the San Francisco Bay Conservation and Development Commission, a statement that the property is so located and the following notice:

NOTICE OF SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION JURISDICTION
This property is located within the jurisdiction of the San Francisco Bay Conservation and Development Commission. Use and development of property within the commission's jurisdiction may be subject to special regulations, restrictions, and permit requirements. You may wish to investigate and determine whether they are acceptable to you and your intended use of the property before you complete your transaction.

(17) If the property is presently located within one mile of a parcel of real property designated as "Prime Farmland," "Farmland of Statewide Importance," "Unique Farmland," "Farmland of Local Importance," or "Grazing Land" on the most current "Important Farmland Map" issued by the California Department of Conservation, Division of Land Resource Protection, utilizing solely the county-level GIS map data, if any, available on the Farmland Mapping and Monitoring Program Website. If the residential property is within one mile of a designated farmland area, the report shall contain the following notice:

NOTICE OF RIGHT TO FARM
This property is located within one mile of a farm or ranch land designated on the current county-level GIS "Important Farmland Map," issued by the California Department of Conservation, Division of Land Resource Protection. Accordingly, the property may be subject to inconveniences or discomforts resulting from agricultural operations that are a normal and necessary aspect of living in a community with a strong rural character and a healthy agricultural sector. Customary agricultural practices in farm operations may include, but are not limited to, noise, odors, dust, light, insects, the operation of pumps and machinery, the storage and disposal of manure, bee pollination, and the ground or aerial application of fertilizers, pesticides, and herbicides. These agricultural practices may occur at any time during the 24-hour day. Individual sensitivities to those practices can vary from person to person. You may wish to consider the impacts of such agricultural practices before you complete your purchase. Please be advised that you may be barred from obtaining legal remedies against agricultural practices conducted in a manner consistent with proper and accepted customs and standards pursuant to Section 3482.5 of the Civil Code or any pertinent local ordinance.

(18) Any other information that the owner, his or her agent, or the subdivider may desire to present.

(c) The commissioner may, by regulation, or on the basis of the particular circumstances of a proposed offering, waive the requirement of the submission of a completed questionnaire if the commissioner determines that prospective purchasers or lessees of the subdivision interests to be offered will be adequately protected through the issuance of a public report based solely upon information contained in the notice of intention.

(Amended by Stats. 2013, Ch. 352, Sec. 35. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

Civil Code

DIVISION 2. PROPERTY
[654-1422] (Heading of Division 2 amended by Stats. 1988, Ch. 160, Sec. 13.)

PART 2. Real or Immovable Property
[755-945.5] (Part 2 enacted 1872.)

TITLE 2. Estates in Real Property
[761-817.4] (Title 2 enacted in 1872.)

CHAPTER 4. Conservation Easements
[815-816] (Chapter 4 added by Stats. 1979, Ch. 179.)

§ 815. The Legislature finds and declares that the preservation of land in its natural, scenic, agricultural, historical, forested, or open-space condition is among the most important environmental assets of California. The Legislature further finds and declares it to be the public policy and in the public interest of this state to encourage the voluntary conveyance of conservation easements to qualified nonprofit organizations.
(Added by Stats. 1979, Ch. 179.)

§ 815.1. For the purposes of this chapter, "conservation easement" means any limitation in a deed, will, or other instrument in the form of an easement, restriction, covenant, or condition, which is or has been executed by or on behalf of the owner of the land subject to such easement and is binding upon successive owners of such land, and the purpose of which is to retain land predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition.
(Added by Stats. 1979, Ch. 179.)

§ 815.2. (a) A conservation easement is an interest in real property voluntarily created and freely transferable in whole or in part for the purposes stated in Section 815.1 by any lawful method for the transfer of interests in real property in this state.

(b) A conservation easement shall be perpetual in duration.

(c) A conservation easement shall not be deemed personal in nature and shall constitute an interest in real property notwithstanding the fact that it may be negative in character.

(d) The particular characteristics of a conservation easement shall be those granted or specified in the instrument creating or transferring the easement.
(Added by Stats. 1979, Ch. 179.)

§ 815.3. Only the following entities or organizations may acquire and hold conservation easements:

(a) A tax-exempt nonprofit organization qualified under Section 501(c)(3) of the Internal Revenue Code and qualified to do business in this state which has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, or open-space condition or use.

(b) The state or any city, county, city and county, district, or other state or local governmental entity, if otherwise authorized to acquire and hold title to real property and if the conservation easement is voluntarily conveyed. No local governmental entity may condition the issuance of an entitlement for use on the applicant's granting of a conservation easement pursuant to this chapter.

(c) A federally recognized California Native American tribe or a nonfederally recognized California Native American tribe that is on the contact list maintained by the Native American Heritage Commission to protect a California Native American prehistoric, archaeological, cultural, spiritual, or ceremonial place, if the conservation easement is voluntarily conveyed.
(Amended by Stats. 2004, Ch. 905, Sec. 2. Effective January 1, 2005.)

§ 815.4. All interests not transferred and conveyed by the instrument creating the easement shall remain in the grantor of the easement, including the right to engage in all uses of the land not affected by the easement nor prohibited by the easement or by law.
(Added by Stats. 1979, Ch. 179.)

§ 815.5. Instruments creating, assigning, or otherwise transferring conservation easements shall be recorded in the office of the county recorder of the county where the land is situated, in whole or in part, and such instruments shall be subject in all respects to the recording laws.
(Added by Stats. 1979, Ch. 179.)

§ 815.7. (a) No conservation easement shall be unenforceable by reason of lack of privity of contract or lack of benefit to particular land or because not expressed in the instrument creating it as running with the land.

(b) Actual or threatened injury to or impairment of a conservation easement or actual or threatened violation of its terms may be prohibited or restrained, or the interest intended for protection by such easement may be enforced, by injunctive relief granted by any court of competent jurisdiction in a proceeding initiated by the grantor or by the owner of the easement.

(c) In addition to the remedy of injunctive relief, the holder of a conservation easement shall be entitled to recover money damages for any injury to such easement or to the interest being protected thereby or for the violation of the terms of such easement. In assessing such damages there may be taken into account, in addition to the cost of restoration and other usual rules of the law of damages, the loss of scenic, aesthetic, or environmental value to the real property subject to the easement.

(d) The court may award to the prevailing party in any action authorized by this section the costs of litigation, including reasonable attorney's fees.
(Added by Stats. 1979, Ch. 179.)

§ 815.9. Nothing in this chapter shall be construed to impair or conflict with the operation of any law or statute conferring upon any political subdivision the right or power to hold interests in land comparable to conservation easements, including, but not limited to, Chapter 12 (commencing with Section 6950) of Division 7 of Title 1 of, Chapter 6.5 (commencing with Section 51050), Chapter 6.6 (commencing with Section 51070) and Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of, and Article 10.5 (commencing with Section 65560) of Chapter 3 of Title 7 of, the Government Code, and Article 1.5 (commencing with Section 421) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code.
(Added by Stats. 1979, Ch. 179.)

§ 815.10. A conservation easement granted pursuant to this chapter constitutes an enforceable restriction, for purposes of Section 402.1 of the Revenue and Taxation Code.
(Added by Stats. 1984, Ch. 777, Sec. 1.)

PART 4. Acquisition of Property
[1000-1422] (Part 4 enacted 1872.)

TITLE 4. Transfer
[1039-1231] (Title 4 enacted 1872.)

CHAPTER 2. Transfer of Real Property
[1091-1134] (Chapter 2 enacted 1872.)

Article 1.7. **Disclosure of Natural and Environmental Hazards, Right-to-Farm, and Other Disclosures Upon Transfer of Residential Property**
[1103-1103.14] (Headings of Article 1.7 amended by Stats. 2008, Ch. 686, Sec. 2.)

§ 1103.4. (a) Neither the transferor nor any listing or selling agent shall be liable for any error, inaccuracy, or omission of any information delivered pursuant to this article if the error, inaccuracy, or omission was not within the personal knowledge of the transferor or the listing or selling agent, and was based on information timely provided by public agencies or by other persons providing information as specified in subdivision (c) that is required to be disclosed pursuant to this article, and ordinary care was exercised in obtaining and transmitting the information.

(b) The delivery of any information required to be disclosed by this article to a prospective transferee by a public agency or other person providing information required to be disclosed pursuant to this article shall be deemed to comply with the requirements of this article and shall relieve the transferor or any listing or selling agent of any further duty under this article with respect to that item of information.

(c) The delivery of a report or opinion prepared by a licensed engineer, land surveyor, geologist, or expert in natural hazard discovery dealing with matters within the scope of the professional's license or expertise shall be sufficient compliance for application of the exemption provided by subdivision (a) if the information is provided to the prospective transferee pursuant to a request therefor, whether written or oral. In responding to that request, an expert may indicate, in writing, an understanding that the information provided will be used in fulfilling the requirements of Section 1103.2 and, if so, shall indicate the required disclosures, or parts thereof, to which the information being furnished is applicable. Where that statement is furnished, the expert shall not be responsible for any items of information, or parts thereof, other than those expressly set forth in the statement.

(1) In responding to the request, the expert shall determine whether the property is within an airport influence area as defined in subdivision (b) of Section 11010 of the Business and Professions Code. If the property is within an airport influence area, the report shall contain the following statement:

NOTICE OF AIRPORT IN VICINITY
This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

(2) In responding to the request, the expert shall determine whether the property is within the jurisdiction of the San Francisco Bay Conservation and Development Commission, as defined in Section 66620 of the Government Code. If the property is within the commission's jurisdiction, the report shall contain the following notice:

NOTICE OF SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION JURISDICTION
This property is located within the jurisdiction of the San Francisco Bay Conservation and Development Commission. Use and development of property within the commission's jurisdiction may be subject to special regulations, restrictions, and permit requirements. You may wish to investigate and determine whether they are acceptable to you and your intended use of the property before you complete your transaction.

(3) In responding to the request, the expert shall determine whether the property is presently located within one mile of a parcel of real property designated as "Prime Farmland," "Farmland of Statewide Importance," "Unique Farmland," "Farmland of Local Importance," or "Grazing Land" on the most current "Important Farmland Map" issued by the California Department of Conservation, Division of Land Resource Protection, utilizing solely the county-level GIS map data, if any, available on the Farmland Mapping and Monitoring Program Web site. If the residential property is within one mile of a designated farmland area, the report shall contain the following notice:

NOTICE OF RIGHT TO FARM
This property is located within one mile of a farm or ranch land designated on the current county-level GIS "Important Farmland Map," issued by the California Department of Conservation, Division of Land Resource Protection. Accordingly, the property may be subject to inconveniences or discomforts resulting from agricultural operations that are a normal and necessary aspect of living in a community with a strong rural character and a healthy agricultural sector. Customary agricultural practices in farm operations may include, but are not limited to, noise, odors, dust, light, insects, the operation of pumps and machinery, the storage and disposal of manure, bee pollination, and the ground or aerial application of fertilizers, pesticides, and herbicides. These agricultural practices may occur at any time during the 24-hour day. Individual sensitivities to those practices can vary from person to person. You may wish to consider the impacts of such agricultural practices before you complete your purchase. Please be advised that you may be barred from obtaining legal remedies against agricultural practices conducted in a manner consistent with proper and accepted customs and standards pursuant to Section 3482.5 of the Civil Code or any pertinent local ordinance.

(4) In responding to the request, the expert shall determine, utilizing map coordinate data made available by the Office of Mine Reclamation, whether the property is presently located within one mile of a mine operation for which map coordinate data has been reported to the director pursuant to Section 2207 of the Public Resources Code. If the expert determines, from the available map coordinate data, that the residential property is located within one mile of a mine operation, the report shall contain the following notice:

NOTICE OF MINING OPERATIONS:
This property is located within one mile of a mine operation for which the mine owner or operator has reported mine location data to the Department of Conservation pursuant to Section 2207 of the Public

Resources Code. Accordingly, the property may be subject to inconveniences resulting from mining operations. You may wish to consider the impacts of these practices before you complete your transaction.
(Amended by Stats. 2011, Ch. 253, Sec. 1. Effective January 1, 2012.)

DIVISION 4. General Provisions
[3274-9566] (Heading of Division 4 amended by Stats. 1988, Ch. 160, Sec. 16.)

PART 3. Nuisance
[3479-3508.2] (Part 3 enacted 1872.)

TITLE 1. General Principles
[3479-3486.5] (Title 1 enacted 1872.)

§ 3482.5. (a) (1) No agricultural activity, operation, or facility, or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after it has been in operation for more than three years if it was not a nuisance at the time it began.

(2) No activity of a district agricultural association that is operated in compliance with Division 3 (commencing with Section 3001) of the Food and Agricultural Code, shall be or become a private or public nuisance due to any changed condition in or about the locality, after it has been in operation for more than three years if it was not a nuisance at the time it began. This paragraph shall not apply to any activities of the 52nd District Agricultural Association that are conducted on the grounds of the California Exposition and State Fair, nor to any public nuisance action brought by a city, county, or city and county alleging that the activities, operations, or conditions of a district agricultural association have substantially changed after more than three years from the time that the activities, operations, or conditions began.

(b) Paragraph (1) of subdivision (a) shall not apply if the agricultural activity, operation, or facility, or appurtenances thereof obstruct the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin, or any public park, square, street, or highway.

(c) Paragraph (1) of subdivision (a) shall not invalidate any provision contained in the Health and Safety Code, Fish and Game Code, Food and Agricultural Code, or Division 7 (commencing with Section 13000) of the Water Code, if the agricultural activity, operation, or facility, or appurtenances thereof constitute a nuisance, public or private, as specifically defined or described in any of those provisions.

(d) This section shall prevail over any contrary provision of any ordinance or regulation of any city, county, city and county, or other political subdivision of the state. However, nothing in this section shall preclude a city, county, city and county, or other political subdivision of this state, acting within its constitutional or statutory authority and not in conflict with other provisions of state law, from adopting an ordinance that allows notification to a prospective homeowner that the dwelling is in close proximity to an agricultural activity, operation, facility, or appurtenances thereof and is subject to the provisions of this section consistent with Section 1102.6a.

(e) For purposes of this section, the term "agricultural activity, operation, or facility, or appurtenances thereof" shall include, but not be limited to, the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural commodity including timber, viticulture, apiculture, or horticulture, the raising of livestock, fur bearing animals, fish, or poultry, and any practices

performed by a farmer or on a farm as incident to or in conjunction with those farming operations, including preparation for market, delivery to storage or to market, or delivery to carriers for transportation to market.
(Amended by Stats. 1992, Ch. 97, Sec. 1. Effective January 1, 1993.)

Code of Civil Procedure

PART 3. Of Special Proceedings of a Civil Nature
[1063-1822.60] (Part 3 enacted 1872.)

TITLE 7. EMINENT DOMAIN LAW
[1230.010-1273.050] (Title 7 repealed [comm. with Section 1237] and added by Stats. 1975, Ch. 1275.)

CHAPTER 3. The Right to Take
[1240.010-1240.700] (Chapter 3 added by Stats. 1975, Ch. 1275.)

Article 3. **Future Use**
[1240.210-1240.250] (Article 3 added by Stats. 1975, Ch. 1275.)

§ 1240.220. (a) Any person authorized to acquire property for a particular use by eminent domain may exercise the power of eminent domain to acquire property to be used in the future for that use, but property may be taken for future use only if there is a reasonable probability that its date of use will be within seven years from the date the complaint is filed or within such longer period as is reasonable.

(b) Unless the plaintiff plans that the date of use of property taken will be within seven years from the date the complaint is filed, the complaint, and the resolution of necessity if one is required, shall refer specifically to this section and shall state the estimated date of use.
(Added by Stats. 1975, Ch. 1275.)

Food and Agricultural Code

DIVISION 1. STATE ADMINISTRATION
[101-1501] (Division 1 enacted by Stats. 1967, Ch. 15.)

PART 1. The Department of Food and Agriculture
[101-894] (Heading of Part 1 amended by Stats. 1976, Ch. 1079.)

CHAPTER 6. State Agricultural Policy
[801-822] (Chapter 6 added by Stats. 1982, Ch. 1150, Sec. 1.)

Article 2. **Agricultural Policy**
[821-822] (Article 2 added by Stats. 1982, Ch. 1150, Sec. 1.)

§ 821. As part of promoting and protecting the agricultural industry of the state and for the protection of public health, safety, and welfare, the Legislature shall provide for a continuing sound and healthy agricul-

ture in California and shall encourage a productive and profitable agriculture. Major principles of the state's agricultural policy shall be all of the following:

(a) To increase the sale of crops and livestock products produced by farmers, ranchers, and processors of food and fiber in this state.

(b) To enhance the potential for domestic and international marketing of California agricultural products through fostering the creation of value additions to commodities and the development of new consumer products.

(c) To sustain the long-term productivity of the state's farms by conserving and protecting the soil, water, and air, which are agriculture's basic resources.

(d) To maximize the ability of farmers, ranchers, and processors to learn about and adopt practices that will best enable them to achieve the policies stated in this section.

(Amended by Stats. 2000, Ch. 670, Sec. 3. Effective January 1, 2001.)

Government Code

TITLE 1. GENERAL

[100-7914] (Title 1 enacted by Stats. 1943, Ch. 134.)

DIVISION 7. Miscellaneous

[6000-7599.2] (Division 7 enacted by Stats. 1943, Ch. 134.)

CHAPTER 3.5. Inspection of Public Records

[6250-6276.48] (Chapter 3.5 added by Stats. 1968, Ch. 1473.)

Article 1. **General Provisions**

[6250-6270] (Article 1 heading added by Stats. 1998, Ch. 620, Sec. 1.)

§ 6254. Except as provided in Sections 6254.7 and 6254.13, this chapter does not require the disclosure of any of the following records:

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(Amended by Stats. 2014, Ch. 31, Sec. 2. Effective June 20, 2014.)

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA
[8000-22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 4. Fiscal Affairs
[16100-17700] (Division 4 added by Stats. 1945, Ch. 119.)

PART 1. Funds for Subventions
[16100-16214] (Part 1 added by Stats. 1969, Ch. 1526.)

CHAPTER 3. Open-Space Subventions
[16140-16154] (Chapter 3 added by Stats. 1972, Ch. 1066.)

§ 16140. There is hereby continuously appropriated to the Controller from the General Fund a sum sufficient to make the payments required by this chapter.

The payments provided by this chapter shall be made only when the value of each parcel of open-space land assessed under Sections 423, 423.3, 423.4, and 423.5 of the Revenue and Taxation Code is less than the value that would have resulted if the valuation of the property was made pursuant to Section 110.1 of the Revenue and Taxation Code, as though the property were not subject to an enforceable restriction in the base year.
(Amended by Stats. 1998, Ch. 353, Sec. 1. Effective August 24, 1998.)

§ 16141. It is the purpose of this chapter to provide replacement revenues to local government by reason of the reduction of the property tax on open-space lands assessed under Sections 423, 423.3, 423.4, and 423.5 of the Revenue and Taxation Code. Notwithstanding any other provisions of this chapter, no subvention payments to a county, city, city and county, or school district shall be made pursuant to this chapter for land enforceably restricted pursuant to the Open-Space Easement Act of 1974 (Chapter 6.6 (commencing with Section 51070) of Part 1 of Division 1 of Title 5).
(Amended by Stats. 1998, Ch. 353, Sec. 2. Effective August 24, 1998.)

§ 16142. (a) The Secretary of the Natural Resources Agency shall direct the Controller to pay annually out of the funds appropriated by Section 16140, to each eligible county, city, or city and county, the following amounts for each acre of land within its regulatory jurisdiction that is assessed pursuant to Section 423, 423.3, 423.4, or 423.5, or Section 426 if it was previously assessed under Section 423.4, of the Revenue and Taxation Code:

(1) Five dollars ($5) for prime agricultural land, as defined in Section 51201.

(2) One dollar ($1) for all land, other than prime agricultural land, which is devoted to open-space uses of statewide significance, as defined in Section 16143.

(b) The amount per acre in paragraph (1) of subdivision (a) may be increased by the Secretary of the Natural Resources Agency to a figure which would offset any savings due to a more restrictive determination by the secretary as to what land is devoted to open-space use of statewide significance.

(c) The amount per acre in subdivision (a) shall only be paid for 10 years from the date that the land was first assessed pursuant to Section 426 of the Revenue and Taxation Code, if it was previously assessed under Section 423.4 of that code.

(d) Notwithstanding any other provision of law, for the 2008–09 fiscal year and each fiscal year thereafter, the Controller shall reduce, by 10 percent, any payment made pursuant to this section.

(e) Effective January 1, 2011, if the payment pursuant to this section for the previous fiscal year is less than one-half of the participating county's actual foregone general fund property tax revenue, the county may make a determination to implement subdivision (b) of Section 51244 and Section 51244.3. The implementation of these sections shall be suspended for any subsequent fiscal year in which the payment for the previous fiscal year exceeds one-half of the foregone general fund property tax revenue.

For purposes of this subdivision, a county's actual foregone property tax revenue shall be based on the county's respective share of the general property tax dollars as reflected in the most recent annual report issued by the State Board of Equalization or 20 percent, whichever is higher.
(Amended and Repealed by Stats. 2014, Ch. 322, Sec. 1.)

§ 16142.1. (a) In lieu of the payments made pursuant to Section 16142, in a county that has adopted farmland security zones pursuant to Section 51296, the Secretary of the Natural Resources Agency shall direct the Controller to pay annually out of the funds appropriated by Section 16140, to each eligible county, city, or city and county, the following amount for each acre of land within its regulatory jurisdiction that is assessed pursuant to Section 423.4 or 426 of the Revenue and Taxation Code, if it was previously assessed under Section 423.4 of that code:
Eight dollars ($8) for land that is within, or within three miles of the boundaries of the sphere of influence of, each incorporated city.

(b) The amount per acre in subdivision (a) shall only be paid for 10 years from the date that the land was first assessed pursuant to Section 426 of the Revenue and Taxation Code, if it was previously assessed under Section 423.4 of that code. The appropriation authorized by this subdivision shall not exceed one hundred thousand dollars ($100,000) per year until 2005.

(c) Notwithstanding any other provision of law, for the 2008–09 fiscal year and each fiscal year thereafter, the Controller shall reduce, by 10 percent, any payments made pursuant to this section.

(d) Effective January 1, 2011, if the payment pursuant to this section for the previous fiscal year is less than one-half of the participating county's actual foregone general fund property tax revenue, the county may make a determination to implement subdivision (b) of Section 51244 and Section 51244.3. The implementation of these sections shall be suspended for any subsequent fiscal year in which the payment for the previous fiscal year exceeds one-half of the foregone general fund property tax revenue. For purposes of this subdivision, a county's actual foregone property tax revenue shall be based on the county's respective share of the general property tax dollars as reflected in the most recent annual report issued by the State Board of Equalization or 20 percent, whichever is higher.
(Amended by Stats. 2014, Ch. 322, Sec. 3.)

§ 16142.5. (a) For the fiscal year 1977–78, no payment to a city or county shall increase or reduce the amount which would have been paid to the city or county under the provisions of Section 16142 as it existed on March 1, 1976, as applied to land assessed pursuant to Section 423 or 423.5 of the Revenue and Taxation Code for the fiscal year 1977–78, in excess of an amount which is equal to the property tax derived from a levy at the rate of three cents ($0.03) per hundred dollars of assessed value.

(b) For fiscal years subsequent to the 1977–78 fiscal year, no payment to a city or county shall increase or reduce the amount which was paid in the prior fiscal year in excess of an amount which is equal to the property tax derived from a levy at the rate of three cents ($0.03) per hundred dollars of assessed value for the fiscal year, except as affected by an increase or a reduction in the acreage assessed under Section 423, 423.3, or 423.5 of the Revenue and Taxation Code.
(Amended by Stats. 1981, Ch. 998, Sec. 4. Effective September 29, 1981.)

§ 16143. Land shall be deemed to be devoted to open-space uses of statewide significance if it:

(a) Could be developed as prime agricultural land, or

(b) Is open-space land as defined in Section 65560 which constitutes a resource whose preservation is of more than local importance for ecological, economic, educational, or other purposes. The Secretary of the Resources Agency shall be the final judge of whether the land is in fact devoted to open-space use of statewide significance.

(Added by renumbering Section 16108 by Stats. 1972, Ch. 1066.)

§ 16144. On or before October 31 each year, the governing body of each county, city, or city and county shall report to the Secretary of the Resources Agency the number of acres of land under its regulatory jurisdiction which qualify for state payments pursuant to the various categories enumerated in Section 16142, together with supporting documentation as the secretary by regulation may require. The secretary, after reviewing the report and determining the eligibility of the local government to receive payment and the actual amount to which it is entitled, shall certify that amount to the Controller for payment, and the Controller shall make the payment on or before June 30, but no earlier than April 20, of each year.

The secretary may make supplemental reports to the Controller as he or she deems necessary throughout the year to give effect to new or additional information received from local governing bodies, correct errors, and dispose of contested or conditional situations. Upon receiving the reports, the Controller shall pay any amount certified therein, and may withhold and deduct any certified overpayment from the amount that would otherwise be paid to the local government in the next succeeding year, including any cancellation fees that have not been collected and transmitted pursuant to Section 51283.

(*Amended by Stats. 2008, Ch. 751, Sec. 42. Effective September 30, 2008.)*

§ 16145. Funds received by local governments pursuant to the provisions of this chapter may be used for county, city, or city and county purposes, as the case may be, or may, but need not necessarily, be used for purposes of general interest and benefit to the state. The use of the funds shall include administration, supervision, and enforcement of any open-space program under which a local government receives the funds. The funds may also include an allocation of all or part of them to any special district or school district existing within boundaries of a local government in which land is assessed pursuant to Section 423, 423.3, or 423.5 of the Revenue and Taxation Code, and which has thereby suffered a reduction in its assessed valuation, when the local governing body determines:

(a) That the loss of assessed value is substantial and will have an adverse effect upon programs of public importance carried on by the district.

(b) The benefits flowing from the restrictions on the use of land within the district do not accrue solely or primarily to landowners or residents within the district.

(c) That the taxes collected by the district are not devoted to expenditures primarily of benefit to land or landowners within the district.

Any special district or school district may make application for an allocation of the funds from the local government in the form and with such supporting evidence as the governing board of the local government may require. The governing board may also adopt such uniform standards as it believes necessary to determine the amount and method of payment of such assistance, and may provide for such payments to be reduced annually, according to a schedule, so as to cease financial assistance over a specified period of years. However, nothing herein shall be construed as requiring the governing board of the local government to make any allocation to any special district or school district, and the governing board of the local govern-

ment shall be the sole judge of the entitlement of any special district or school district to any allocation and to the amount of the allocation if granted.
(Amended by Stats. 1981, Ch. 998, Sec. 5. Effective September 29, 1981.)

§ 16146. The Secretary of the Resources Agency may determine, after notice and hearing, that a local government is ineligible to receive state payments pursuant to this article by reason of its failure to comply with the provision of Article 10.5 (commencing with Section 65560) of Chapter 3 of Title 7, or with the provisions of any program which establishes an enforceable restriction upon which the assessment of land within its jurisdiction pursuant to Section 423, 423.3, 423.4, or 423.5 of the Revenue and Taxation Code is based. The fact that a local government has not complied with the requirements of Article 10.5 (commencing with Section 65560) of Chapter 3 of Title 7 by the dates set forth in that article shall not be reason to determine that the local government is ineligible to receive state payments, if the local government has complied by July 1 of the year in which application is made. This section shall not be construed to require the disqualification of any land from assessment pursuant to Section 423, 423.3, 423.4, or 423.5 of the Revenue and Taxation Code as a consequence of any determination of ineligibility by the secretary.
(Amended by Stats. 1998, Ch. 353, Sec. 4. Effective August 24, 1998.)

§ 16147. The Secretary of the Resources Agency may request the Attorney General to bring any action in court necessary to enforce any enforceable restriction as defined in Section 422 of the Revenue and Taxation Code, upon land for which the secretary has certified payment of state funds to the local governing body during the current or any preceding fiscal year. Such action may include, but is not limited to, an action to enforce the contract by specific performance or injunction.
(Added by renumbering Section 16112 by Stats. 1972, Ch. 1066.)

§ 16148. Zero dollars ($0) is appropriated for the 2010–11 fiscal year from the General Fund to the Controller to make subvention payments to counties pursuant to Section 16140 in proportion to the losses incurred by those counties by reason of the reduction of assessed property taxes.
(Amended by Stats. 2011, Ch. 11, Sec. 10. Effective March 24, 2011.)

§ 16154. In addition to the report required by Section 16144, the Secretary of the Resources Agency shall require from local government agencies such other information relative to lands valued pursuant to Section 8 of Article XIII of the California Constitution as is necessary for the proper administration of the provisions of Sections 16142 through 16153 and for periodic review of the policies established therein. Information collected pursuant to this section shall be transmitted on request to the Legislature and to other state agencies, including, but not limited to, the State Board of Equalization, the Superintendent of Public Instruction, and the Department of Food and Agriculture.
(Amended by Stats. 1984, Ch. 193, Sec. 41.)

TITLE 5. LOCAL AGENCIES

[50001-57550] (Title 5 added by Stats. 1949, Ch. 81.)

DIVISION 1. Cities and Counties

[50001-52203] (Division 1 added by Stats. 1949, Ch. 81.)

PART 1. Powers and Duties Common to Cities and Counties

[50001-51298.5] (Part 1 added by Stats. 1949, Ch. 81.)

CHAPTER 6.6. Open-Space Easement Act of 1974

[51070-51097] (Chapter 6.6 added by Stats. 1974, Ch. 1003.)

Article 1. Declaration

[51070-51073] (Article 1 added by Stats. 1974, Ch. 1003.)

§ 51070. It is the intent of the Legislature in enacting this chapter to provide a means whereby any county or city may acquire or approve an open-space easement in perpetuity or for a term of years for the purpose of preserving and maintaining open space.
(Amended by Stats. 1977, Ch. 1178.)

§ 51071. The Legislature finds that the rapid growth and spread of urban development is encroaching upon, or eliminating open-space lands which are necessary not only for the maintenance of the economy of the state, but also for the assurance of the continued availability of land for the production of food and fiber, for the enjoyment of scenic beauty, for recreation and for the use and conservation of natural resources.
(Added by Stats. 1974, Ch. 1003.)

§ 51072. The Legislature hereby declares that open-space lands, if preserved and maintained, would constitute important physical, social, economic or aesthetic assets to existing or pending urban development.
(Added by Stats. 1974, Ch. 1003.)

§ 51073. The Legislature further declares that the acquisition of open-space easements is in the public interest and constitutes a public purpose for which public funds may be expended or advanced.
(Added by Stats. 1974, Ch. 1003.)

Article 2. Definitions

[51075-51075] (Article 2 added by Stats. 1974, Ch. 1003.)

§ 51075. As used in this chapter, unless otherwise apparent from the context:

(a) "Open-space land" means any parcel or area of land or water which is essentially unimproved and devoted to an open-space use as defined in Section 65560 of the Government Code.

(b) "City" means any city or city and county.

(c) "Landowner" includes a lessee or trustee, if the expiration of the lease or trust occurs at a time later than the expiration of the open-space restriction or any extension thereof.

(d) "Open-space easement" means any right or interest in perpetuity or for a term of years in open-space land acquired by a county, city, or nonprofit organization pursuant to this chapter where the deed or other instrument granting such right or interest imposes restrictions which, through limitation of future use, will effectively preserve for public use or enjoyment the natural or scenic character of such open-space land. An open-space easement shall contain a covenant with the county, city, or nonprofit organization running with the land, either in perpetuity or for a term of years, that the landowner shall not construct or permit the construction of improvements except those for which the right is expressly reserved in the instrument provided that such reservation would not be inconsistent with the purposes of this chapter and which would not be incompatible with maintaining and preserving the natural or scenic character of the land. Any such convenant shall not prohibit the construction of either public service facilities installed for the benefit of the land subject to such covenant or public service facilities installed pursuant to an authorization by the governing body of the county or city or the Public Utilities Commission.

(e) "Open-space plan" means the open-space element of a county or city general plan adopted by the local governing body pursuant to Section 65560 of the Government Code.

(f) "Nonprofit organization" means any organization qualifying under Section 501(c)(3) of the Internal Revenue Code in the preceding tax year, and which includes the preservation of open space as a stated purpose in its articles of incorporation. Such qualification shall be demonstrated by a letter of determination from the Internal Revenue Service.
(Amended by Stats. 1977, Ch. 1178.)

Article 3. **General Provisions**

[51080-51087] (Article 3 added by Stats. 1974, Ch. 1003.)

§ 51080. Any county or city which has an adopted open-space plan may accept or approve a grant of an open-space easement on privately owned lands lying within the county or city in the manner provided in this chapter.
(Amended by Stats. 1977, Ch. 1178.)

§ 51081. The execution and acceptance of a deed or other instrument described in subdivision (d) of Section 51075 shall constitute a dedication to the public of the open-space character of the lands for the term specified. Any such easement and covenant shall run for a term of not less than 10 years. An open-space easement for a term of years shall provide that on the anniversary date of the acceptance of the open-space easement or on such other annual date as specified by the deed or other instrument described in subdivision (d) of Section 51075, a year shall be added automatically to the initial term unless a notice of nonrenewal is given as provided in Section 51091.
(Amended by Stats. 1975, Ch. 224.)

§ 51082. A county or city may require a deed or other instrument described in subdivision (d) of Section 51075 to contain any such restrictions, conditions or covenants as are necessary or desirable to maintain the natural or scenic character of the land or to prevent any activity, use or action which could impair the open-space character of the land.
(Amended by Stats. 1979, Ch. 373.)

§ 51083. No deed or other instrument described in subdivision (d) of Section 51075 shall be effective until it has been accepted or approved by resolution of the governing body of the county or city and its acceptance endorsed thereon.
(Amended by Stats. 1977, Ch. 1178.)

§ 51083.5. Notwithstanding any provisions of this chapter, the grant of any easement to a nonprofit organization shall be effective upon its acceptance by such organization. However, for the purposes of this chapter and Sections 421 to 432, inclusive, of the Revenue and Taxation Code, no such easement shall be considered as granted pursuant to this chapter unless the grant of such easement has been approved by the county or city in which the land lies pursuant to the provisions of this article.
(Added by Stats. 1977, Ch. 1178.)

§ 51084. A grant of an open-space easement shall not be accepted or approved by a county or city, unless the governing body, by resolution, finds:

(a) That the preservation of the land as open space is consistent with the general plan of the county or city; and

(b) That the preservation of the land as open space is in the best interest of the state, county, city, or city and county and is important to the public for the enjoyment of scenic beauty, for the use of natural resources, for recreation, or for the production of food or fiber specifically because one or more of the following reasons exists:

(1) That the land is essentially unimproved and if retained in its natural state has either scenic value to the public, or is valuable as a watershed or as a wildlife preserve, and the instrument contains appropriate covenants to that end.

(2) It is in the public interest that the land be retained as open space because such land either will add to the amenities of living in neighboring urbanized areas or will help preserve the rural character of the area in which the land is located.

(3) The land lies in an area that in the public interest should remain rural in character and the retention of the land as open space will preserve the rural character of the area.

(4) It is in the public interest that the land remain in its natural state, including the trees and other natural growth, as a means of preventing floods or because of its value as watershed.

(5) The land lies within an established scenic highway corridor.

(6) The land is valuable to the public as a wildlife preserve or sanctuary and the instrument contains appropriate covenants to that end.

(7) The public interest will otherwise be served in a manner recited in the resolution and consistent with the purposes of this subdivision and Section 8 of Article XIII of the Constitution of the State of California.

The resolution of the governing body shall establish a conclusive presumption that the conditions set forth in subdivisions (a) and (b) have been satisfied.
(Amended by Stats. 2012, Ch. 875, Sec. 7. Effective January 1, 2013.)

§ 51085. The governing body of the county or city may not accept or approve any grant of an open-space easement until the matter has first been referred to the county or city planning department or planning commission and a report thereon has been received from the planning department or planning commission. Within 30 days after receiving the proposal to accept or approve a grant of an open-space easement, the

planning department or planning commission shall submit its report to the governing body. The governing body may extend the time for submitting such a report for an additional period not exceeding 30 days. The report shall specify whether the proposal is consistent with the general plan of the jurisdiction.
(Amended by Stats. 1977, Ch. 1178.)

§ 51086. (a) From and after the time when an open-space easement has been accepted or approved by the county or city and its acceptance or approval endorsed thereon, no building permit may be issued for any structure which would violate the easement and the county or city shall seek by appropriate proceedings an injunction against any threatened construction or other development or activity on the land which would violate the easement and shall seek a mandatory injunction requiring the removal of any structure erected in violation of the easement.

In the event the county or city fails to seek an injunction against any threatened construction or other development or activity on the land which would violate the easement or to seek a mandatory injunction requiring the removal of any structure erected in violation of the easement, or if the county or city should construct any structure or development or conduct or permit any activity in violation of the easement, the owner of any property within the county or city, or any resident thereof, may, by appropriate proceedings, seek such an injunction.

(b) In the case of an open-space easement granted to a nonprofit organization pursuant to this chapter, such organization shall seek, through its official representatives, an injunction against any threatened construction or other development or activity on the land which would violate the easement and shall seek a mandatory injunction requiring the removal of any structure erected in violation of the easement.

(c) The court may award to a plaintiff or defendant who prevails in an action authorized by this section his or her costs of litigation, including reasonable attorney's fees.

(d) Nothing in this chapter shall limit the power of the state, or any department or agency thereof, or any county, city, school district, or any other local public district, agency or entity, or any other person authorized by law, to acquire land subject to an open-space easement by eminent domain.
(Amended by Stats. 1977, Ch. 1178.)

§ 51087. Upon the acceptance or approval of any instrument creating an open-space easement the clerk of the governing body shall record the same in the office of the county recorder and file a copy thereof with the county assessor. The recording shall be consistent with Section 27255. From and after the time of the recordation, the easement shall impart notice thereof to all persons as is afforded by the recording laws of this state.
(Amended by Stats. 2012, Ch. 875, Sec. 8. Effective January 1, 2013.)

Article 4. **Termination of an Open-Space Easement**

[51090-51094] (Article 4 added by Stats. 1974, Ch. 1003.)

§ 51090. An open-space easement for a term of years may be terminated only in accordance with the provisions of this article. An open-space easement may be terminated only by:

(a) Nonrenewal, or

(b) Abandonment.

Abandonment of an easement granted to the county or city pursuant to this chapter shall be controlled by Section 51093.

Abandonment or nonrenewal of an easement granted to a nonprofit organization pursuant to this chapter shall be effective only if approved by appropriate resolution of the governing body of such organization and such abandonment or nonrenewal initiated by a nonprofit organization has been approved by the county or city in which the land lies in the manner provided in Section 51093.
(Amended by Stats. 1977, Ch. 1178.)

§ 51091. If either the landowner or the county, city, or nonprofit organization desires in any year not to renew the open-space easement, that party shall serve written notice of nonrenewal of the easement upon the other party at least 90 days in advance of the annual renewal date of the open-space easement. Unless such written notice is served at least 90 days in advance of the renewal date, the open-space easement shall be considered renewed as provided in Section 51081.

Upon receipt by the owner of a notice from the county, city, or nonprofit organization of nonrenewal, the owner may make a written protest of the notice of nonrenewal. The county, city, or nonprofit organization may, at any time prior to the renewal date, withdraw the notice of nonrenewal.
(Amended by Stats. 1977, Ch. 1178.)

§ 51092. If the county, city, or nonprofit organization or the landowner serves notice of intent in any year not to renew the open-space easement, the existing open-space easement shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the open-space easement, as the case may be.
(Amended by Stats. 1977, Ch. 1178.)

§ 51093. (a) The landowner may petition the governing body of the county or city for abandonment of any open-space easement or in the case of an open-space easement granted to a nonprofit organization pursuant to this chapter, for approval of abandonment by such organization, as to all of the subject land. The governing body may approve the abandonment of an open-space easement only if, by resolution, it finds:

(1) That no public purpose described in Section 51084 will be served by keeping the land as open space; and

(2) That the abandonment is not inconsistent with the purposes of this chapter; and

(3) That the abandonment is consistent with the local general plan; and

(4) That the abandonment is necessary to avoid a substantial financial hardship to the landowner due to involuntary factors unique to him.

No resolution abandoning an open-space easement, or approving the abandonment of an open-space easement granted to a nonprofit organization pursuant to this chapter, shall be finally adopted until the matter has been referred to the county or city planning commission, the commission has held a public hearing thereon and furnished a report on the matter to the governing body stating whether the abandonment is consistent with the local general plan and the governing body has held at least one public hearing thereon after giving 30 days' notice thereof by publication in accordance with Section 6061 of the Government Code, and by posting notice on the land.

(b) Prior to approval of the resolution abandoning or approving the abandonment of an open-space easement, the county assessor of the county in which the land subject to the open-space easement is located

shall determine the full cash value of the land as though it were free of the open-space easement. The assessor shall multiply such value by 25 percent, and shall certify the product to the governing body as the abandonment valuation of the land for the purpose of determining the abandonment fee.

(c) Prior to giving approval to the abandonment of any open-space easement, the governing body shall determine and certify to the county auditor the amount of the abandonment fee which the landowner must pay the county treasurer upon abandonment. That fee shall be an amount equal to 50 percent of the abandonment valuation of the property.

(d) Any sum collected pursuant to this section shall be transmitted by the county treasurer to the State Controller and be deposited in the State General Fund.

(e) An abandonment shall not become effective until the abandonment fee has been paid in full.
(Amended by Stats. 1977, Ch. 1178.)

§ 51094. Upon the recording in the office of the county recorder of a certified copy of a resolution abandoning or approving the abandonment of an open-space easement and reciting compliance with the provisions of Section 51093, the land subject thereto shall be deemed relieved of the easement and the covenants of the owner contained therein shall be deemed terminated; provided, however, that no certified copy of any resolution abandoning or approving the abandonment of an open-space easement shall be recorded until the abandonment fee has been paid in full.
(Amended by Stats. 1977, Ch. 1178.)

Article 5. Eminent Domain and Other Provisions

[51095-51097] (Article 5 added by Stats. 1974, Ch. 1003.)

§ 51095. If any land or a portion thereof as to which any city or county has accepted or approved an open-space easement pursuant to this chapter is thereafter sought to be condemned for public use and the easement was received as a gift without the payment of any compensation therefor, the easement shall terminate as of the time of the filing of the complaint in condemnation as to the land or portion thereof sought to be taken for public use, and the owner shall be entitled to such compensation for the taking as he would have been entitled to had the land not been burdened by the easement.
(Amended by Stats. 1977, Ch. 1178.)

§ 51096. Lands subject to the grant of an open-space easement executed and accepted in accordance with this chapter shall be deemed to be enforceably restricted within the meaning of Section 8 of Article XIII of the Constitution of the State of California.
(Amended by Stats. 1975, Ch. 224.)

§ 51097. Nothing in this chapter shall be deemed to prevent or restrict the right or power of any county or city to acquire by purchase, gift, grant, bequest, devise, lease or otherwise any right or interest in real property for the purpose of preserving open space or for any other purpose under any other provisions of law.
(Added by Stats. 1974, Ch. 1003.)

CHAPTER 6.9. Solar-Use Easement

[51190-51192.2] (Chapter 6.9 added by Stats. 2011, Ch. 596, Sec. 8.)

Article 1. Definitions

[51190-51190] (Article 1 added by Stats. 2011, Ch. 596, Sec. 8.)

§ 51190. As used in this chapter, the following terms have the following meanings:

(a) "City" means any city or city and county.

(b) "Landowner" includes a lessee or trustee, if the expiration of the lease or trust occurs at a time later than the expiration of the restriction of the use of the land to photovoltaic solar facilities or any extension of the restriction.

(c) "Solar-use easement" means any right or interest acquired by a county, or city in perpetuity, for a term of years, or annually self-renewing as provided in Section 51191.2, in a parcel or parcels determined by the Department of Conservation pursuant to Section 51191 to be eligible, where the deed or other instrument granting the right or interest imposes restrictions that, through limitation of future use, will effectively restrict the use of the land to photovoltaic solar facilities for the purpose of providing for the collection and distribution of solar energy for the generation of electricity, and any other incidental or subordinate agricultural, open-space uses, or other alternative renewable energy facilities. A solar-use easement shall not permit any land located in the easement to be used for any other use allowed in commercial, industrial, or residential zones. A solar-use easement shall contain a covenant with the county, or city running with the land, either in perpetuity or for a term of years, that the landowner shall not construct or permit the construction of improvements except those for which the right is expressly reserved in the instrument provided that those reservations would not be inconsistent with the purposes of this chapter and which would not be incompatible with the sole use of the property for solar photovoltaic facilities.

(Added by Stats. 2011, Ch. 596, Sec. 8. Effective January 1, 2012.)

Article 2. General Provisions

[51191-51191.8] (Article 2 added by Stats. 2011, Ch. 596, Sec. 8.)

§ 51191. (a) For purposes of this chapter, and for purposes of Chapter 7 (commencing with Section 51200), the Department of Conservation, in consultation with the Department of Food and Agriculture, upon a request from a city or county, may determine, based on substantial evidence, that a parcel or parcels is eligible for rescission under Section 51255.1 for placement into a solar-use easement if the following criteria are met:

(1) The land meets either of the following:

(A) The land consists predominately of soils with significantly reduced agricultural productivity for agricultural activities due to chemical or physical limitations, topography, drainage, flooding, adverse soil conditions, or other physical reasons.

(B) The land has severely adverse soil conditions that are detrimental to continued agricultural activities and production. Severely adverse soil conditions may include, but are not limited to, contamination by salts or selenium, or other naturally occurring contaminants.

(2) The parcel or parcels are not located on lands designated as prime farmland, unique farmland, or farmland of statewide importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Natural Resources Agency, unless the Department of Conservation, in consultation with the Department of Food and Agriculture, determines that a parcel or parcels

are eligible to be placed in a solar-use easement based on the information provided in subdivision (b) that demonstrates that circumstances exist that limit the use of the parcel for agricultural activities. For purposes of this section, the important farmland designations shall not be changed solely due to irrigation status.

(b) To assist in the determination described in this section, the city or county shall require the landowner to provide to the Department of Conservation the following information to the extent applicable:

(1) A written narrative demonstrating that even under the best currently available management practices, continued agricultural practices would be substantially limited due to the soil's reduced agricultural productivity from chemical or physical limitations.

(2) A recent soil test demonstrating that the characteristics of the soil significantly reduce its agricultural productivity.

(3) An analysis of water availability demonstrating the insufficiency of water supplies for continued agricultural production.

(4) An analysis of water quality demonstrating that continued agricultural production would, under the best currently available management practices, be significantly reduced.

(5) Crop and yield information for the past six years.

(c) The landowner shall provide the Department of Conservation with a proposed management plan describing how the soil will be managed during the life of the easement, how impacts to adjacent agricultural operations will be minimized, how the land will be restored to its previous general condition, as it existed at the time of project approval, upon the termination of the easement. If the Department of Conservation determines, in consultation with the Department of Food and Agriculture, pursuant to subdivision (a), that lands are subject to this section, the city or county shall require implementation of the management plan, which shall include any recommendations provided by the Department of Conservation, as part of any project approval.

(d) A determination by the Department of Conservation pursuant to this section related to a project described in Section 21080 of the Public Resources Code shall not be subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

(e) The Department of Conservation may establish a fee to be paid by the landowner to recover the estimated costs incurred by the department in participating in the consultation described in this section.
(Amended by Stats. 2012, Ch. 330, Sec. 7. Effective January 1, 2013.)

§ 51191.1. Any county or city may enter into an agreement with a landowner pursuant to Section 51255.1 to use lands determined to be eligible pursuant to Section 51191 in a solar-use easement in the manner provided in this chapter.
(Added by Stats. 2011, Ch. 596, Sec. 8. Effective January 1, 2012.)

§ 51191.2. The execution and acceptance of a deed or other instrument described in subdivision (c) of Section 51190 shall constitute a dedication to the public of the use of lands for solar photovoltaic use. Any term easement and covenant shall run for a term of not less than 20 years unless a shorter term is requested by the landowner, in which case the term may be not less than 10 years. A solar-use easement for a term of years may provide that on the anniversary date of the acceptance of the solar-use easement, or on any other annual date as specified by the deed or other instrument described in subdivision (c) of Section 51190, a year shall be added automatically to the initial term unless a notice of nonrenewal is given as provided in Section 51192.
(Added by Stats. 2011, Ch. 596, Sec. 8. Effective January 1, 2012.)

§ 51191.3. (a) A county or city may require a deed or other instrument described in subdivision (c) of Section 51190 to contain any restrictions, conditions, or covenants as are necessary or desirable to restrict the use of the land to photovoltaic solar facilities.

(b) The restrictions, conditions, or covenants may include, but are not limited to, the following:

(1) Mitigation measures on the land that is subject to the solar-use easement.

(2) Mitigation measures beyond the land that is subject to the solar-use easement.

(3) If deemed necessary by the city or county to ensure that decommissioning requirements are met, the provision for financial assurances, such as performance bonds, letters of credit, a corporate guarantee, or other securities to fund, upon the cessation of the solar photovoltaic use, the restoration of the land that is subject to the easement to the conditions that existed before the approval or acceptance of that easement by the time that the easement terminates.

(4) Provision for necessary amendments by the parties provided that the amendments are consistent with the provisions of this chapter.

(c) For term easements or self-renewing easements, the restrictions, conditions, or covenants shall include a requirement for the landowner to post a performance bond or other securities to fund the restoration of the land that is subject to the easement to the conditions that existed before the approval or acceptance of the easement by the time the easement is extinguished. The Department of Conservation may adopt regulations pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2) to implement this subdivision.

(Amended by Stats. 2012, Ch. 330, Sec. 8. Effective January 1, 2013.)

§ 51191.4. No deed or other instrument described in subdivision (c) of Section 51190 shall be effective until it has been accepted or approved by resolution of the governing body of the county or city and its acceptance endorsed thereon.

(Added by Stats. 2011, Ch. 596, Sec. 8. Effective January 1, 2012.)

§ 51191.5. (a) During the term of the solar-use easement, the county or city shall not approve any land use on land covered by a solar easement that is inconsistent with the easement, and no building permit may be issued for any structure that would violate the easement. The county or city shall seek, by appropriate proceedings, an injunction against any threatened construction or other development or activity on the land that would violate the easement and shall seek a mandatory injunction requiring the removal of any structure erected in violation of the easement.

If the county or city fails to seek an injunction against any threatened construction or other development or activity on the land that would violate the easement or to seek a mandatory injunction requiring the removal of any structure erected in violation of the easement, or if the county or city should construct any structure or development or conduct or permit any activity in violation of the easement, a person or entity may, by appropriate proceedings, seek an injunction.

(b) The court may award to a plaintiff who prevails in an action authorized by this section his or her cost of litigation, including reasonable attorney's fees.

(c) Nothing in this chapter shall limit the power of the state or any county, city, school district, or any other local public district, agency, or entity, or any other person authorized by law, to acquire land subject to a solar-use easement by eminent domain.

(Added by Stats. 2011, Ch. 596, Sec. 8. Effective January 1, 2012.)

§ 51191.6. Upon the acceptance or approval of any instrument creating a solar-use easement, the clerk of the governing body shall record the instrument in the office of the county recorder and file a copy with the county assessor. After the easement is recorded, it shall impart notice to all persons under the recording laws of this state.
(Added by Stats. 2011, Ch. 596, Sec. 8. Effective January 1, 2012.)

§ 51191.7. The parcel or parcels subject to a solar-use easement shall be assessed pursuant to Section 402.1 of the Revenue and Taxation Code during the term of the easement.
(Added by Stats. 2011, Ch. 596, Sec. 8. Effective January 1, 2012.)

§ 51191.8. The Department of Conservation may adopt regulations pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2) for the implementation of this chapter.
(Added by Stats. 2011, Ch. 596, Sec. 8. Effective January 1, 2012.)

Article 3. Extinguishment of a Solar-Use Easement

[51192-51192.2] (Article 3 added by Stats. 2011, Ch. 596, Sec. 8.)

§ 51192. (a) A solar-use easement may be extinguished on all or a portion of the parcel only by nonrenewal, termination, or by returning the land to its previous contract pursuant to Article 3 (commencing with Section 51240) of Chapter 7.

(b) (1) If either the landowner or the county or city desires in any year not to renew the solar-use easement on all or a portion of the parcel, that party shall serve written notice of nonrenewal of the easement upon the other party at least 90 days in advance of the annual renewal date of the solar-use easement. Unless written notice is served at least 90 days in advance of the renewal date, the solar-use easement shall be considered renewed as provided in Section 51191.2.

(2) Upon receipt by the owner of a notice from the county or city of nonrenewal, the owner may make a written protest of the notice of nonrenewal. The county or city may, at any time prior to the renewal date, withdraw the notice of nonrenewal.

(c) If the county, city, or the landowner serves notice of intent in any year not to renew the solar-use easement, the existing solar-use easement shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the solar-use easement, as the case may be.
(Added by Stats. 2011, Ch. 596, Sec. 8. Effective January 1, 2012.)

§ 51192.1. In the case of a solar-use easement that is extinguished because of a notice of nonrenewal by the landowner or due to termination, the landowner shall restore the land that is subject to the easement to the conditions that existed before the approval of the easement by the time the easement is extinguished.
(Amended by Stats. 2012, Ch. 330, Sec. 9. Effective January 1, 2013.)

§ 51192.2. (a) If all or a portion of the parcel held in a solar-use easement will no longer be used for the purposes outlined in the easement the landowner may petition the county or city to approve termination of the easement.

(b) Prior to any action by the county or city giving tentative approval to the termination of any easement, the county assessor of the county in which the land is located shall determine the current fair market value of the parcel or parcels to be terminated as though the parcel or parcels were free of the easement

restriction. The assessor shall certify to the county or city the termination valuation of the parcel or parcels for the purpose of determining the termination fee. At the same time, the assessor shall send a notice to the landowner and the Department of Conservation indicating the current fair market value of the parcel or parcels as though the parcel or parcels were free of the easement restriction and advise the parties, that upon their request, the assessor shall provide all information relevant to the valuation, excluding third-party information. If any information is confidential or otherwise protected from release, the department and the landowner shall hold it as confidential and return or destroy any protected information upon completion of all actions relating to valuation or termination of the easement on the property. The notice shall also advise the landowner and the department of the opportunity to request formal review from the assessor.

(c) Prior to giving tentative approval to the termination of any easement, the county or city shall determine and certify to the county auditor the amount of the termination fee that the landowner shall pay the county treasurer upon termination. That fee shall be an amount equal to 121/2 percent of the termination valuation of the property.

(d) If it finds that it is in the public interest to do so, the county or city may waive any payment or any portion of a payment by the landowner, or may extend the time for making the payment or a portion of the payment contingent upon the future use made of the parcel or parcels and the parcel or parcels economic return to the landowner for a period of time not to exceed the unexpired period of the easement, had it not been terminated, if both of the following occur:

(1) The termination is caused by an involuntary transfer or change in the use which may be made of the land and the land is not immediately suitable, nor will be immediately used, for a purpose which produces a greater economic return to the owner.

(2) The waiver or extension of time is approved by the Secretary of the Natural Resources Agency. The secretary shall approve a waiver or extension of time if the secretary finds that the granting of the waiver or extension of time by the county or city is consistent with the policies of this chapter and that the county or city complied with this article. In evaluating a request for a waiver or extension of time, the secretary shall review the findings of the county or city, the evidence in the record of the county or city, and any other evidence the secretary may receive concerning the termination, waiver, or extension of time.

(e) When termination fees required by this section are collected, they shall be transmitted by the county treasurer to the Controller and deposited in the General Fund, except as provided in subdivision (b) of Section 51203 or subdivision (d) of Section 51283.

(f) It is the intent of the Legislature that fees paid to terminate a contract do not constitute taxes but are payments that, when made, provide a private benefit that tends to increase the value of the property.
(Amended by Stats. 2012, Ch. 330, Sec. 10. Effective January 1, 2013.)

CHAPTER 7. Agricultural Land

[51200–51297.4] (Chapter 7 added by Stats. 1965, Ch. 1443.)

Article 1. General Provisions

[51200-51207] (Article 1 added by Stats. 1965, Ch. 1443.)

§ 51200. This chapter shall be known as the California Land Conservation Act of 1965 or as the Williamson Act.
(Amended by Stats. 1967, Ch. 1371.)

§ 51201. As used in this chapter, unless otherwise apparent from the context, the following terms have the following meanings:

(a) "Agricultural commodity" means any and all plant and animal products produced in this state for commercial purposes, including, but not limited to, plant products used for producing biofuels.

(b) "Agricultural use" means use of land, including but not limited to greenhouses, for the purpose of producing an agricultural commodity for commercial purposes.

(c) "Prime agricultural land" means any of the following:

(1) All land that qualifies for rating as class I or class II in the Natural Resource Conservation Service land use capability classifications.

(2) Land which qualifies for rating 80 through 100 in the Storie Index Rating.

(3) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.

(4) Land planted with fruit- or nut-bearing trees, vines, bushes, or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars ($200) per acre.

(5) Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than two hundred dollars ($200) per acre for three of the previous five years.

(d) "Agricultural preserve" means an area devoted to either agricultural use, as defined in subdivision (b), recreational use as defined in subdivision (n), or open-space use as defined in subdivision (o), or any combination of those uses and which is established in accordance with the provisions of this chapter.

(e) "Compatible use" is any use determined by the county or city administering the preserve pursuant to Section 51231, 51238, or 51238.1 or by this act to be compatible with the agricultural, recreational, or open-space use of land within the preserve and subject to contract. "Compatible use" includes agricultural use, recreational use or open-space use unless the board or council finds after notice and hearing that the use is not compatible with the agricultural, recreational or open-space use to which the land is restricted by contract pursuant to this chapter.

(f) "Board" means the board of supervisors of a county which establishes or proposes to establish an agricultural preserve or which enters or proposes to enter into a contract on land within an agricultural preserve pursuant to this chapter.

(g) "Council" means the city council of a city which establishes or proposes to establish an agricultural preserve or which enters or proposes to enter into a contract on land within an agricultural preserve pursuant to this chapter.

(h) Except where it is otherwise apparent from the context, "county" or "city" means the county or city having jurisdiction over the land.

(i) A "scenic highway corridor" is an area adjacent to, and within view of, the right-of-way of:

(1) An existing or proposed state scenic highway in the state scenic highway system established by the Legislature pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code and which has been officially designated by the Department of Transportation as an official state scenic highway; or

(2) A county scenic highway established pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code, if each of the following conditions have been met:

(A) The scenic highway is included in an adopted general plan of the county or city; and

(B) The scenic highway corridor is included in an adopted specific plan of the county or city; and

(C) Specific proposals for implementing the plan, including regulation of land use, have been approved by the Advisory Committee on a Master Plan for Scenic Highways, and the county or city highway has been officially designated by the Department of Transportation as an official county scenic highway.

(j) A "wildlife habitat area" is a land or water area designated by a board or council, after consulting with and considering the recommendation of the Department of Fish and Game, as an area of importance for the protection or enhancement of the wildlife resources of the state.

(k) A "saltpond" is an area which, for at least three consecutive years immediately prior to being placed within an agricultural preserve pursuant to this chapter, has been used for the solar evaporation of seawater in the course of salt production for commercial purposes.

(l) A "managed wetland area" is an area, which may be an area diked off from the ocean or any bay, river or stream to which water is occasionally admitted, and which, for at least three consecutive years immediately prior to being placed within an agricultural preserve pursuant to this chapter, was used and maintained as a waterfowl hunting preserve or game refuge or for agricultural purposes.

(m) A "submerged area" is any land determined by the board or council to be submerged or subject to tidal action and found by the board or council to be of great value to the state as open space.

(n) "Recreational use" is the use of land in its agricultural or natural state by the public, with or without charge, for any of the following: walking, hiking, picnicking, camping, swimming, boating, fishing, hunting, or other outdoor games or sports for which facilities are provided for public participation. Any fee charged for the recreational use of land as defined in this subdivision shall be in a reasonable amount and shall not have the effect of unduly limiting its use by the public. Any ancillary structures necessary for a recreational use shall comply with the provisions of Section 51238.1.

(o) "Open-space use" is the use or maintenance of land in a manner that preserves its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide habitat for wildlife, or for the solar evaporation of seawater in the course of salt production for commercial purposes, if the land is within:

(1) A scenic highway corridor, as defined in subdivision (i).

(2) A wildlife habitat area, as defined in subdivision (j).

(3) A saltpond, as defined in subdivision (k).

(4) A managed wetland area, as defined in subdivision (l).

(5) A submerged area, as defined in subdivision (m).

(6) An area enrolled in the United States Department of Agriculture Conservation Reserve Program or Conservation Reserve Enhancement Program.

(p) "Development" means, as used in Section 51223, the construction of buildings or the use of the restricted property if the buildings or use are unrelated to the agricultural use, the open-space use, or uses compatible with either agricultural or open-space uses of the property, or substantially impair the agricul-

tural, open-space, or a combination of the agricultural and open-space uses of the property. Agricultural use, open-space use, uses compatible with either agricultural or open-space uses, or the acquisition of land or an interest in land are not development.
(Amended by Stats. 2008, Ch. 503, Sec. 1. Effective January 1, 2009.)

§ 51203. (a) The assessor shall determine the current fair market value of the land as if it were free of the contractual restriction pursuant to Section 51283. The Department of Conservation or the landowner, also referred to in this section as "parties," may provide information to assist the assessor to determine the value. Any information provided to the assessor shall be served on the other party, unless the information was provided at the request of the assessor, and would be confidential under law if required of an assessee.

(b) Within 45 days of receiving the assessor's notice pursuant to subdivision (a) of Section 51283 or Section 51283.4, if the Department of Conservation or the landowner believes that the current fair market valuation certified pursuant to subdivision (b) of Section 51283 or Section 51283.4 is not accurate, the department or the landowner may request formal review from the county assessor in the county considering the petition to cancel the contract. The department or the landowner shall submit to the assessor and the other party the reasons for believing the valuation is not accurate and the additional information the requesting party believes may substantiate a recalculation of the property valuation. The assessor may recover his or her reasonable costs of the formal review from the party requesting the review, and may provide an estimate of those costs to the requesting party. The recovery of these costs from the department may be deducted by the city or county from cancellation fees received pursuant to this chapter prior to transmittal to the Controller for deposit in the Soil Conservation Fund. The assessor may require a deposit from the landowner to cover the contingency that payment of a cancellation fee will not necessarily result from the completion of a formal review. This subdivision shall not be construed as a limitation on the authority provided in Section 51287 for cities or counties to recover their costs in the cancellation process, except that the assessor's costs of conducting a formal review shall not be borne by the nonrequesting party.

(1) If no request is made within 45 days of receiving notice by certified mail of the valuation, the assessor's valuation shall be used to calculate the fee.

(2) Upon receiving a request for formal review, the assessor shall formally review his or her valuation if, based on the determination of the assessor, the information may have a material effect on valuation of the property. The assessor shall notify the parties that the formal review is being undertaken and that information to aid the assessor's review shall be submitted within 30 days of the date of the notice to the parties. Any information submitted to the assessor shall be served on the other party who shall have 30 days to respond to that information to the assessor. If the response to the assessor contains new information, the party receiving that response shall have 20 days to respond to the assessor as to the new information. All submittals and responses to the assessor shall be served on the other party by personal service or an affidavit of mailing. The assessor shall avoid ex parte contacts during the formal review and shall report any such contacts to the department and the landowner at the same time the review is complete. The assessor shall complete the review no later than 120 days of receiving the request.

(3) At the conclusion of the formal review, the assessor shall either revise the cancellation valuation or determine that the original cancellation valuation is accurate. The assessor shall send the revised valuation or notice of the determination that the valuation is accurate to the department, the landowner, and the board or council considering the petition to cancel the contract. The assessor shall include a brief narrative of what consideration was given to the items of information and responses directly relating to the cancellation value submitted by the parties. The assessor shall give no consideration to a party's information or response that was not served on the other party. If the assessor denies a formal review, a brief narrative shall be provided to the parties indicating the basis for the denial, if requested.

(c) For purposes of this section, the valuation date of any revised valuation pursuant to formal review or following judicial challenge shall remain the date of the assessor's initial valuation, or his or her initial recomputation pursuant to Section 51283.4. For purposes of cancellation fee calculation in a tentative cancellation as provided in Section 51283, or in a recomputation for final cancellation as provided in Section 51283.4, a cancellation value shall be considered current for one year after its determination and certification by the assessor.

(d) Notwithstanding any other provision of this section, the department and the landowner may agree on a cancellation valuation of the land. The agreed valuation shall serve as the cancellation valuation pursuant to Section 51283 or Section 51283.4. The agreement shall be transmitted to the board or council considering the petition to cancel the contract.

(e) If a contract with a city or county includes an additional cancellation fee pursuant to Section 51240, the department shall provide a preliminary valuation to the county assessor of the county in which the land is located and the board of supervisors or the city council at least 60 days prior to the effective date of the final cancellation valuation pursuant to subdivision (d). The preliminary valuation shall include a description of the rationale and facts considered by the department in determining the cancellation value. The assessor may provide comments on the preliminary valuation to the board of supervisors or city council. The board of supervisors or city council may provide comments on the preliminary valuation and cancellation value, if submitted, to the department. Prior to determining the final cancellation valuation, the department shall consider the comments of the board or council concerning the preliminary valuation and cancellation valuation, if submitted.

(f) This section represents the exclusive administrative procedure for appealing a cancellation valuation calculated pursuant to this section. The Department of Conservation shall represent the interests of the state in the administrative and judicial remedies for challenging the determination of a cancellation valuation or cancellation fee.

(Amended by Stats. 2015, Ch. 631, Effective January 1, 2016.)

§ 51205. Notwithstanding any provisions of this chapter to the contrary, land devoted to recreational use or land within a scenic highway corridor, a wildlife habitat area, a saltpond, a managed wetland area, or a submerged area may be included within an agricultural preserve pursuant to this chapter. When such land is included within an agricultural preserve, the city or county within which it is situated may contract with the owner for the purpose of restricting the land to recreational or open space use and uses compatible therewith in the same manner as provided in this chapter for land devoted to agricultural use. For purposes of this section, where the term "agricultural land" is used in this chapter, it shall be deemed to include land devoted to recreational use and land within a scenic highway corridor, a wildlife habitat area, a saltpond, a managed wetland area, or a submerged area, and where the term "agricultural use" is used in this chapter, it shall be deemed to include recreational and open space use.

(Amended by Stats. 1970, Ch. 1281.)

§ 51205.1. Notwithstanding any provisions of this chapter to the contrary, land within a scenic highway corridor, as defined in subdivision (i) of Section 51201, shall, upon the request of the owner, be included in an agricultural preserve pursuant to this chapter. When such land is included within an agricultural preserve, the city or county within which it is situated shall contract with the owner for the purpose of restricting the land to agricultural use as defined in subdivision (b), recreational use as defined in subdivision (n), open-space use as defined in subdivision (o), compatible use as defined in subdivision (e), or any combination of such uses.

(Added by Stats. 1978, Ch. 1120.)

§ 51206. The Department of Conservation may meet with and assist local, regional, state, and federal agencies, organizations, landowners, or any other person or entity in the interpretation of this chapter. The department may research, publish, and disseminate information regarding the policies, purposes, procedures, administration, and implementation of this chapter. This section shall be liberally construed to permit the department to advise any interested person or entity regarding this chapter.
(Added by Stats. 1986, Ch. 607, Sec. 1.)

§ 51207. (a) On or before May 1 of every other year, the Department of Conservation shall report to the Legislature regarding the implementation of this chapter by cities and counties.

(b) The report shall contain, but not be limited to, the number of acres of land under contract in each category and the number of acres of land which were removed from contract through cancellation, eminent domain, annexation, or nonrenewal.

(c) The report shall also contain the following specific information relating to not less than one-third of all cities and counties participating in the Williamson Act program:

(1) The number of contract cancellation requests for which notices of hearings were mailed to the Director of Conservation pursuant to Section 51284 which were approved by boards or councils during the prior two years or for which approval is still pending by boards or councils.

(2) The amount of cancellation fees payable to the county treasurer as deferred taxes and which are required to be transmitted to the Controller pursuant to subdivision (d) of Section 51283 which have not been collected or which remain unpaid.

(3) The total number of acres covered by certificates of cancellation of contracts during the previous two years.

(4) The number of nonrenewal and withdrawal of renewal notices received pursuant to Section 51245 and the number of expiration notices received pursuant to Section 51246 during the previous two years.

(5) The number of acres covered by nonrenewal notices that were not withdrawn and expiration notices during the previous two years.

(d) The department may recommend changes to this chapter which would further promote its purposes.

(e) The Legislature may, upon request of the department, appropriate funds from the deferred taxes deposited in the General Fund pursuant to subdivision (d) of Section 51283 in an amount sufficient to prepare the report required by this section.
(Amended by Stats. 2001, Ch. 745, Sec. 104. Effective October 12, 2001.)

Article 2. **Declaration**

[51220-51223] (Article 2 added by Stats. 1965, Ch. 1443.)

§ 51220. The Legislature finds:

(a) That the preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources, and is necessary not only to the maintenance of the agricultural economy of the state, but also for the assurance of adequate, healthful and nutritious food for future residents of this state and nation.

(b) That the agricultural work force is vital to sustaining agricultural productivity; that this work force has the lowest average income of any occupational group in this state; that there exists a need to house

this work force of crisis proportions which requires including among agricultural uses the housing of agricultural laborers; and that such use of agricultural land is in the public interest and in conformity with the state's Farmworker Housing Assistance Plan.

(c) That the discouragement of premature and unnecessary conversion of agricultural land to urban uses is a matter of public interest and will be of benefit to urban dwellers themselves in that it will discourage discontiguous urban development patterns which unnecessarily increase the costs of community services to community residents.

(d) That in a rapidly urbanizing society agricultural lands have a definite public value as open space, and the preservation in agricultural production of such lands, the use of which may be limited under the provisions of this chapter, constitutes an important physical, social, esthetic and economic asset to existing or pending urban or metropolitan developments.

(e) That land within a scenic highway corridor or wildlife habitat area as defined in this chapter has a value to the state because of its scenic beauty and its location adjacent to or within view of a state scenic highway or because it is of great importance as habitat for wildlife and contributes to the preservation or enhancement thereof.

(f) For these reasons, this chapter is necessary for the promotion of the general welfare and the protection of the public interest in agricultural land.
(Amended by Stats. 1980, Ch. 1219.)

§ 51220.5. The Legislature finds and declares that agricultural operations are often hindered or impaired by uses which increase the density of the permanent or temporary human population of the agricultural area. For this reason, cities and counties shall determine the types of uses to be deemed "compatible uses" in a manner which recognizes that a permanent or temporary population increase often hinders or impairs agricultural operations.
(Added by Stats. 1986, Ch. 607, Sec. 3.)

§ 51221. The Legislature further declares that the expenditure of public funds under the provisions of this chapter is in the public interest and is necessary to the accomplishment of the purposes herein set forth.
(Added by Stats. 1965, Ch. 1443.)

§ 51222. The Legislature further declares that it is in the public interest for local officials and landowners to retain agricultural lands which are subject to contracts entered into pursuant to this act in parcels large enough to sustain agricultural uses permitted under the contracts. For purposes of this section, agricultural land shall be presumed to be in parcels large enough to sustain their agricultural use if the land is (1) at least 10 acres in size in the case of prime agricultural land, or (2) at least 40 acres in size in the case of land which is not prime agricultural land.
(Amended by Stats. 1990, Ch. 841, Sec. 3.)

§ 51223. (a) A city council or board of supervisors, as the case may be, shall, prior to rescinding a contract for the purpose of restricting the same land by an open-space contract pursuant to Section 51254 or by entering to an open-space agreement pursuant to Section 51255, determine that the parcel or parcels are large enough to provide open-space benefits, by providing habitat for wildlife, or preserving its natural characteristics, beauty, or openness for the benefit and enjoyment of the public.

(b) Uses or development permitted on land subject to an open-space contract, or subject to an open-space easement agreement pursuant to Section 51255, shall satisfy one or both of the following:

(1) Comply with the provisions of Section 51238.1 or 51238.2.

(2) Consist of, cause, facilitate, or benefit one or more open-space uses on the land.

(c) If an open-space contract is executed pursuant to Section 51205, or if a contract is rescinded for the purpose of restricting the same land by an open-space contract pursuant to Section 51254, or an open-space easement agreement pursuant to Section 51255, either of the following shall apply:

(1) The resulting open-space contract shall not permit new development during the period the contract is in effect, except that uses compatible with or related to the open-space uses would be permitted.

(2) The resulting open-space easement agreement shall not permit new development during the time equal to the time remaining on the contract at the time of its rescission, except that uses compatible with, or related to, the open-space uses would be permitted.

(d) For the purposes of this section, agriculture and uses compatible with agriculture are compatible with open-space uses, unless otherwise provided by local rules or ordinances.

(e) A board or council shall not accept or approve a petition for rescission pursuant to Sections 51254 or 51255 if the city or county, within which the land for which the rescission is sought is located, has discovered or received notice of a likely material breach on the land pursuant to the process specified in Section 51250, unless the rescission is a part of the process specified in Section 51250.

(Added by Stats. 2008, Ch. 503, Sec. 2. Effective January 1, 2009.)

Article 2.5. **Agricultural Preserves**

[51230-51239] (Article 2.5 added by Stats. 1969, Ch. 1372.)

§ 51230. Beginning January 1, 1971, any county or city having a general plan, and until December 31, 1970, any county or city, by resolution, and after a public hearing may establish an agricultural preserve. Notice of the hearing shall be published pursuant to Section 6061, and shall include a legal description, or the assessor's parcel number, of the land which is proposed to be included within the preserve. The preserves shall be established for the purpose of defining the boundaries of those areas within which the city or county will be willing to enter into contracts pursuant to this act. An agricultural preserve shall consist of no less than 100 acres; provided, that in order to meet this requirement two or more parcels may be combined if they are contiguous or if they are in common ownership; and further provided, that in order to meet this requirement land zoned as timberland production pursuant to Chapter 6.7 (commencing with Section 51100) may be taken into account.

A county or city may establish agricultural preserves of less than 100 acres if it finds that smaller preserves are necessary due to the unique characteristics of the agricultural enterprises in the area and that the establishment of preserves of less than 100 acres is consistent with the general plan of the county or city. An agricultural preserve may contain land other than agricultural land, but the use of any land within the preserve and not under contract shall within two years of the effective date of any contract on land within the preserve be restricted by zoning, including appropriate minimum parcel sizes that are at a minimum consistent with this chapter, in such a way as not to be incompatible with the agricultural use of the land, the use of which is limited by contract in accordance with this chapter.

Failure on the part of the board or council to restrict the use of land within a preserve but not subject to contract shall not be sufficient reason to cancel or otherwise invalidate a contract.

(Amended by Stats. 1999, Ch. 1018, Sec. 3. Effective January 1, 2000.)

§ 51230.1. (a) Nothing contained in this chapter shall prevent the transfer of ownership from one immediate family member to another of a portion of land which is currently designated as an agricultural preserve in accordance with the provisions of this chapter, if all of the following conditions are satisfied:

(1) The parcel to be transferred is at least 10 acres in size in the case of prime agricultural land or at least 40 acres in size in the case of land which is not prime agricultural land, and otherwise meets the requirements of Section 51222.

(2) The parcel to be transferred conforms to the applicable local zoning and land division ordinances and any applicable local coastal program certified pursuant to Chapter 6 (commencing with Section 30500) of Division 20 of the Public Resources Code.

(3) The parcel to be transferred complies with all applicable requirements relating to agricultural income and permanent agricultural improvements which are imposed by the county or city as a condition of a contract executed pursuant to Article 3 (commencing with Section 51240) covering the land of which the parcel to be transferred is a portion. For purposes of this paragraph, if the contracted land already complies with these requirements, the portion of that land to be transferred shall be deemed to comply with these requirements.

(4) There exists a written agreement between the immediate family members who are parties to the proposed transfer that the land which is subject to a contract executed pursuant to Article 3 (commencing with Section 51240) and the portion of that land which is to be transferred will be operated under the joint management of the parties subject to the terms and conditions and for the duration of the contract executed pursuant to Article 3 (commencing with Section 51240).

(b) A transfer of ownership described in subdivision (a) shall have no effect on any contract executed pursuant to Article 3 (commencing with Section 51240) covering the land of which a portion was the subject of that transfer. The portion so transferred shall remain subject to that contract.

(c) For purposes of this section, "immediate family" means the spouse of the landowner, the natural or adopted children of the landowner, the parents of the landowner, or the siblings of the landowner. *(Amended by Stats. 1987, Ch. 232, Sec. 1.)*

§ 51230.2. (a) Except as provided in Section 51238, and notwithstanding Section 51222 or 66474.4, a landowner may subdivide land that is currently designated as an agricultural preserve if all of the following apply:

(1) The parcel to be sold or leased is no more than five acres.

(2) The parcel shall be sold or leased to a nonprofit organization, a city, a county, a housing authority, or a state agency. A lessee that is a nonprofit organization shall not sublease that parcel without the written consent of the landowner.

(3) The parcel to be sold or leased shall be subject to a deed restriction that limits the use of the parcel to agricultural laborer housing facilities for not less than 30 years. That deed restriction shall also require that parcel to be merged with the parcel from which it was subdivided when the parcel ceases to be used for agricultural laborer housing.

(4) There is a written agreement between the parties to the sale or lease and their successors to operate the parcel to be sold or leased under joint management of the parties, subject to the terms and conditions and for the duration of the contract executed pursuant to Article 3 (commencing with Section 51240).

(5) The parcel to be sold or leased is (A) within a city or (B) in an unincorporated territory or sphere of influence that is contiguous to one or more parcels that are already zoned residential, commercial, or industrial and developed with existing residential, commercial, or industrial uses.

(b) The agricultural labor housing project shall be designed to abate, to the extent practicable, impacts on adjacent landowners' agricultural husbandry practices. The final plan for the housing shall include an addendum that explains what features will be included to meet this goal.

(c) A subdivision of land pursuant to this section shall not affect any contract executed pursuant to Article 3 (commencing with Section 51240). The parcel to be sold or leased shall remain subject to that contract.

(Added by Stats. 1999, Ch. 967, Sec. 1. Effective January 1, 2000.)

§ 51231. For the purposes of this chapter, the board or council, by resolution, shall adopt rules governing the administration of agricultural preserves, including procedures for initiating, filing, and processing requests to establish agricultural preserves. Rules related to compatible uses shall be consistent with the provisions of Section 51238.1. Those rules shall be applied uniformly throughout the preserve. The board or council may require the payment of a reasonable application fee. The same procedure that is required to establish an agricultural preserve shall be used to disestablish or to enlarge or diminish the size of an agricultural preserve. In adopting rules related to compatible uses, the board or council may enumerate those uses, including agricultural laborer housing which are to be considered to be compatible uses on contracted lands separately from those uses which are to be considered to be compatible uses on lands not under contract within the agricultural preserve.

(Amended by Stats. 1995, Ch. 686, Sec. 1.5. Effective October 10, 1995. Operative January 1, 1996, by Sec. 9 of Ch. 686.)

§ 51232. In the event any proposal to disestablish or to alter the boundary of an agricultural preserve will remove land under contract from such a preserve, notice of the proposed alteration or disestablishment and the date of the hearing shall be furnished by the board or council to the owner of the land by certified mail directed to him at his latest address known to the board or council. Such notice shall also be published pursuant to Section 6061 and shall be furnished by first-class mail to each owner of land under contract, any portion of which is situated within one mile of the exterior boundary of the land to be removed from the preserve.

(Amended by Stats. 1978, Ch. 1120.)

§ 51233. When a county proposes to establish, disestablish, or alter the boundary of an agricultural preserve it shall give written notice at least two weeks before the hearing to the local agency formation commission and to every city within the county within one mile of the exterior boundaries of the preserve.

(Amended by Stats. 1978, Ch. 1120.)

§ 51234. Any proposal to establish an agricultural preserve shall be submitted to the planning department of the county or city having jurisdiction over the land. If the county or city has no planning department, a proposal to establish an agricultural preserve shall be submitted to the planning commission. Within 30 days after receiving such a proposal, the planning department or planning commission shall submit a report thereon to the board or council. However, the board or council may extend the time allowed for an additional period not to exceed 30 days.

The report shall include a statement that the preserve is consistent with the general plan, and the board or council shall make a finding to that effect. Final action upon the establishment of an agricultural preserve may not be taken by the board or council until the report required by this section is received from the plan-

ning department or planning commission, or until the required 30 days have elapsed and any extension thereof granted by the board or council has elapsed.
(Amended by Stats. 1999, Ch. 1018, Sec. 4. Effective January 1, 2000.)

§ 51235. An agricultural preserve shall continue in full effect following annexation, detachment, incorporation or disincorporation of land within the preserve.

Any city or county acquiring jurisdiction over land in a preserve by annexation, detachment, incorporation or disincorporation shall have all the rights and responsibilities specified in this act for cities or counties including the right to enlarge, diminish or disestablish an agricultural preserve within its jurisdiction.
(Amended by Stats. 1984, Ch. 523, Sec. 1. Effective July 17, 1984.)

§ 51236. The effect of removal of land under contract from an agricultural preserve shall be the equivalent of notice of nonrenewal by the city or county removing the land from the agricultural preserve and such city or county shall, at least 60 days prior to the next renewal date following the removal, serve a notice of nonrenewal as provided in Section 51245. Such notice of nonrenewal shall be recorded as provided in Section 51248.
(Added by Stats. 1969, Ch. 1372.)

§ 51237. Whenever an agricultural preserve is established, and so long as it shall be in effect, a map of such agricultural preserve and the resolution under which the preserve was established shall be filed and kept current by the city or county with the county recorder.
(Amended by Stats. 1971, Ch. 925.)

§ 51237.5. On or before the first day of September of each year, each city or county in which any agricultural preserve is located shall file with the Director of Conservation a map of each city or county and designate thereon all agricultural preserves in existence at the end of the preceding fiscal year.
(Amended by Stats. 1984, Ch. 851, Sec. 1.)

§ 51238. (a) (1) Notwithstanding any determination of compatible uses by the county or city pursuant to this article, unless the board or council after notice and hearing makes a finding to the contrary, the erection, construction, alteration, or maintenance of gas, electric, water, communication, or agricultural laborer housing facilities are hereby determined to be compatible uses within any agricultural preserve.

(2) No land occupied by gas, electric, water, communication, or agricultural laborer housing facilities shall be excluded from an agricultural preserve by reason of that use.

(b) The board of supervisors may impose conditions on lands or land uses to be placed within preserves to permit and encourage compatible uses in conformity with Section 51238.1, particularly public outdoor recreational uses.
(Amended by Stats. 1999, Ch. 967, Sec. 2. Effective January 1, 2000.)

§ 51238.1. (a) Uses approved on contracted lands shall be consistent with all of the following principles of compatibility:

(1) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.

(2) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in agricultural

preserves. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping.

(3) The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.

In evaluating compatibility a board or council shall consider the impacts on noncontracted lands in the agricultural preserve or preserves.

(b) A board or council may include in its compatible use rules or ordinance conditional uses which, without conditions or mitigations, would not be in compliance with this section. These conditional uses shall conform to the principles of compatibility set forth in subdivision (a) or, for nonprime lands only, satisfy the requirements of subdivision (c).

(c) In applying the criteria pursuant to subdivision (a), the board or council may approve a use on nonprime land which, because of onsite or offsite impacts, would not be in compliance with paragraphs (1) and (2) of subdivision (a), provided the use is approved pursuant to a conditional use permit that shall set forth findings, based on substantial evidence in the record, demonstrating the following:

(1) Conditions have been required for, or incorporated into, the use that mitigate or avoid those onsite and offsite impacts so as to make the use consistent with the principles set forth in paragraphs (1) and (2) of subdivision (a) to the greatest extent possible while maintaining the purpose of the use.

(2) The productive capability of the subject land has been considered as well as the extent to which the use may displace or impair agricultural operations.

(3) The use is consistent with the purposes of this chapter to preserve agricultural and open-space land or supports the continuation of agricultural uses, as defined in Section 51205, or the use or conservation of natural resources, on the subject parcel or on other parcels in the agricultural preserve. The use of mineral resources shall comply with Section 51238.2.

(4) The use does not include a residential subdivision.

For the purposes of this section, a board or council may define nonprime land as land not defined as "prime agricultural land" pursuant to subdivision (c) of Section 51201 or as land not classified as "agricultural land" pursuant to subdivision (a) of Section 21060.1 of the Public Resources Code.

Nothing in this section shall be construed to overrule, rescind, or modify the requirements contained in Sections 51230 and 51238 related to noncontracted lands within agricultural preserves.

(Added by Stats. 1994, Ch. 1251, Sec. 5. Effective January 1, 1995.)

§ 51238.2. Mineral extraction that is unable to meet the principles of Section 51238.1 may nevertheless be approved as compatible use if the board or council is able to document that (a) the underlying contractual commitment to preserve prime agricultural land, as defined in subdivision (c) of Section 51201, or (b) the underlying contractual commitment to preserve land that is not prime agricultural land for open-space use, as defined in subdivision (o) of Section 51201, will not be significantly impaired.

Conditions imposed on mineral extraction as a compatible use of contracted land shall include compliance with the reclamation standards adopted by the Mining and Geology Board pursuant to Section 2773 of the Public Resources Code, including the applicable performance standards for prime agricultural land and other agricultural land, and no exception to these standards may be permitted.

For purposes of this section, "contracted land" means all land under a single contract for which an applicant seeks a compatible use permit.
(Amended by Stats. 2004, Ch. 118, Sec. 17. Effective January 1, 2005.)

§ 51238.3. (a) The requirements of Sections 51238.1 and 51238.2 shall not apply to compatible uses for which an application was submitted to the city or county prior to June 7, 1994, provided that the use constituted a "compatible use" as that term was defined by this chapter either at the time the application was submitted, or at the time the Williamson Act contract was signed with respect to the subject contract lands, whichever is later.

(b) Neither shall the requirements of Sections 51238.1 and 51238.2 apply to land uses of contracted lands in place prior to June 7, 1994, that constituted a "compatible use" as the term "compatible use" was defined by this chapter either at the time the use was initiated, or at the time the Williamson Act contract was signed with respect to the subject contract lands, whichever is later.

(c) (1) Neither shall the requirements of Sections 51238.1 and 51238.2 apply to uses that are expressly specified within the contract itself prior to June 7, 1994, and that constituted a "compatible use" as the term "compatible use" was defined by this chapter at the time that Williamson Act contract was signed with respect to the subject contract lands, or at the time the contract was amended to include the uses, whichever is later. For purposes of this subdivision, the requirements of Sections 51238.1 and 51238.2, effective January 1, 1995, shall apply to contracts for which contract nonrenewal was initiated and was withdrawn after January 1, 1995.

(2) For purposes of this chapter, a compatible use is considered to be expressly specified within the contract only if it is specifically enumerated within the four corners of the Williamson Act contract either without the benefit of referenced documents, or with respect to Williamson Act contracts signed on or before June 7, 1997, with the benefit of referenced documents as those documents existed at the time the Williamson Act contract was initially signed. This subdivision shall be narrowly construed to be consistent with the purposes of this chapter.
(Amended by Stats. 2000, Ch. 889, Sec. 1. Effective January 1, 2001.)

§ 51238.5. (a) If an owner of land agrees to permit the use of his or her land for free public recreation, the board or council may agree to indemnify the owner against all claims arising from that public use. The owner's agreement that the land be used for free, public recreation shall not be construed as an implied dedication to that use.

(b) If an owner of land agrees to permit the use of his or her land for agricultural laborer housing facilities authorized pursuant to Section 51238, the city, county, housing authority, state agency, or nonprofit organization may indemnify the owner against all claims arising from that use.
(Amended by Stats. 1999, Ch. 967, Sec. 3. Effective January 1, 2000.)

§ 51239. The board or council may appoint an advisory board, the members of which shall serve at the pleasure of the board or council and may be paid their expenses. They shall advise the board or council on the administration of the agricultural preserves in the county or city and on any matters relating to contracts entered into pursuant to this chapter.
(Added by Stats. 1969, Ch. 1372.)

Article 3. **Contracts**

[51240-51257.5] (Article 3 added by Stats. 1965, Ch. 1443.)

§ 51240. Any city or county may by contract limit the use of agricultural land for the purpose of preserving such land pursuant and subject to the conditions set forth in the contract and in this chapter. A contract may provide for restrictions, terms, and conditions, including payments and fees, more restrictive than or in addition to those required by this chapter.
(Amended by Stats. 1969, Ch. 1372.)

§ 51241. If such a contract is made with any landowner, the city or county shall offer such a contract under similar terms to every other owner of agricultural land within the agricultural preserve in question. However, except as required by other provisions of this chapter, the provisions of this section shall not be construed as requiring that all contracts affecting land within a preserve be identical, so long as such differences as exist are related to differences in location and characteristics of the land and are pursuant to uniform rules adopted by the county or city.
(Amended by Stats. 1969, Ch. 1372.)

§ 51242. No city or county may contract with respect to any land pursuant to this chapter unless the land:

(a) Is devoted to agricultural use.

(b) Is located within an area designated by a city or county as an agricultural preserve.
(Amended by Stats. 1969, Ch. 1372.)

§ 51243. Every contract shall do both of the following:

(a) Provide for the exclusion of uses other than agricultural, and other than those compatible with agricultural uses, for the duration of the contract.

(b) Be binding upon, and inure to the benefit of, all successors in interest of the owner. Whenever land under a contract is divided, the owner of any parcel may exercise, independent of any other owner of a portion of the divided land, any of the rights of the owner in the original contract, including the right to give notice of nonrenewal and to petition for cancellation. The effect of any such action by the owner of a parcel created by the division of land under contract shall not be imputed to the owners of the remaining parcels and shall have no effect on the contract as it applies to the remaining parcels of the divided land. Except as provided in Section 51243.5, on and after the effective date of the annexation by a city of any land under contract with a county, the city shall succeed to all rights, duties, and powers of the county under the contract.
(Amended by Stats. 1998, Ch. 690, Sec. 1.5. Effective January 1, 1999.)

§ 51243.5. (a) This section shall apply only to land that was within one mile of a city boundary when a contract was executed pursuant to this article and for which the contract was executed prior to January 1, 1991.

(b) For any proposal that would result in the annexation to a city of any land that is subject to a contract under this chapter, the local agency formation commission shall determine whether the city may exercise its option to not succeed to the rights, duties, and powers of the county under the contract.

(c) In making the determination required by subdivision (b), pursuant to Section 51206, the local agency formation commission may request, and the Department of Conservation shall provide, advice and assistance in interpreting the requirements of this section. If the department has concerns about an action

proposed to be taken by a local agency formation commission pursuant to this section or Section 51243.6, the department shall advise the commission of its concerns, whether or not the commission has requested it to do so. The commission shall address the department's concerns in any hearing to consider the proposed annexation or a city's determination whether to exercise its option not to succeed to a contract, and shall specifically find that substantial evidence exists to show that the city has the present option under this section to decline to succeed to the contract.

(d) A city may exercise its option to not succeed to the rights, duties, and powers of the county under the contract if both of the following had occurred prior to December 8, 1971:

(1) The land being annexed was within one mile of the city's boundary when the contract was executed.

(2) The city had filed with the county board of supervisors a resolution protesting the execution of the contract.

(e) A city may exercise its option to not succeed to the rights, duties, and powers of the county under the contract if each of the following had occurred prior to January 1, 1991:

(1) The land being annexed was within one mile of the city's boundary when the contract was executed.

(2) The city had filed with the local agency formation commission a resolution protesting the execution of the contract.

(3) The local agency formation commission had held a hearing to consider the city's protest to the contract.

(4) The local agency formation commission had found that the contract would be inconsistent with the publicly desirable future use and control of the land.

(5) The local agency formation commission had approved the city's protest.

(f) It shall be conclusively presumed that no protest was filed by the city unless there is a record of the filing of the protest and the protest identifies the affected contract and the subject parcel. It shall be conclusively presumed that required notice was given before the execution of the contract.

(g) The option of a city to not succeed to a contract shall extend only to that part of the land that was within one mile of the city's boundary when the contract was executed.

(h) If the city exercises its option to not succeed to a contract, then the city shall record a certificate of contract termination with the county recorder at the same time as the executive officer of the local agency formation commission files the certificate of completion pursuant to Section 57203. The certificate of contract termination shall include a legal description of the land for which the city terminates the contract.
(Amended by Stats. 2002, Ch. 188, Sec. 1. Effective January 1, 2003.)

§ 51243.6. The Legislature finds and declares the following:

(a) The enforceability of contracts entered into pursuant to this article is necessary to permit the preferential taxation provided to the owners of land under contract, pursuant to Section 8 of Article XIII of the California Constitution.

(b) The option granted to a city pursuant to Section 51243.5 to elect not to succeed to a contract may be held only by the city.

(c) No contracting landowner has a reasonable expectation that a contract can be terminated immediately pursuant to this article without penalty.
(Added by Stats. 2002, Ch. 188, Sec. 2. Effective January 1, 2003.)

§ 51244. (a) Each contract shall be for an initial term of no less than 10 years. Each contract shall provide that on the anniversary date of the contract or such other annual date as specified by the contract a year shall be added automatically to the initial term unless notice of nonrenewal is given as provided in Section 51245.

(b)(1) If the county makes a determination pursuant to subdivision (e) of Section 16142 or subdivision (d) of Section 16142.1, contracts shall be for a term of no less than 9 years for contracts currently 10 years in length or 18 years for contracts currently 20 years in length, as the case may be. For new contracts entered into during a year in which this subdivision is in effect, the initial contract length shall be either 9 or 18 years. Each contract shall provide, except in the initial year of the determination that on the anniversary date of the contract or such other annual date as specified by the contract, a year shall be added automatically to the initial term unless notice of nonrenewal is given as provided in Section 51245.
In any subsequent year during the reduced term of contract in which increased revenue is not realized by the county pursuant to Section 51244.3, 2 or 3 additional years shall be added to the contract on the next anniversary date, as necessary, to restore the contract to its full 10-year or 20-year contract length.

(2) In any year in which this subdivision is implemented, the county shall record a notice that states the affected parcel number or numbers and current owner's names, or, alternatively, the same information for those parcels that are not affected.

(3) An addition to the assessed value shall be conveyed to the auditor, consistent with the 10-percent reduction in the length of the restriction, equal to 10 percent of the difference between the valuation pursuant to Section 423, 423.3, 423.4, or 423.5 of the Revenue and Taxation Code, as applicable, and the valuation under subdivision (b) of Section 51 or Section 110.1 of the Revenue and Taxation Code, whichever is lower. If the valuation under subdivision (b) of Section 51 or Section 110.1 of the Revenue and Taxation Code is lower, the addition to the assessed value shall be zero. The increased amount of tax revenue that results from the decrease in restriction shall be separately displayed on the taxpayer's annual bill.

(4) A landowner may elect to serve notice of nonrenewal instead of accepting a 9-year or 18-year contract, as the case may be. In that case, the additional assessed value shall not be added to the property as provided for in paragraph (3).

For purposes of this subdivision, a landowner may serve notice of nonrenewal at any time. However, a landowner who withdraws that notice prior to the effective date shall be subject to term modification and additional assessed value. Once served and effective, a landowner nonrenewal notice may not be withdrawn except for cause and with the consent of the county. A county may adopt amendments to its uniform rules to facilitate implementation of this subdivision during the 2011–12 fiscal year, and thereafter as necessary.

(5) In addition to any other notice requirements, a county shall provide a landowner under contract with timely written notice of all of the following:

(A) Any initial hearing by the county on a proposal to adopt or rescind the implementation of this subdivision.

(B) Any final decision regarding the adoption or rescission of implementation of this subdivision.

(C) The landowner's right to prevent the reduction in the term of his or her contract pursuant to this subdivision by serving notice of nonrenewal as specified by Section 51245. This notice may be combined with the county's notice in subparagraph (B).

(6) A county shall not modify or revalue a landowner's contract pursuant to this subdivision unless the landowner is given at least 90 days' notice of the opportunity to prevent the modification and revaluation by serving notice of nonrenewal and the landowner fails to serve notice of nonrenewal. The county

may use the primary owner of record from the assessment roll to identify landowners entitled to receive notice under this subdivision. A landowner shall be advised of the landowner's right to avoid continued imposition of this subdivision in any future year and thereafter by serving a notice of nonrenewal for that contract year. Failure of the landowner to serve timely notice of nonrenewal in any year shall be considered implied consent to the implementation of this subdivision for that year.

The 90-day notice requirement may be reduced to 60 days if the county adopts a procedure to allow landowners to serve a notice of nonrenewal until February 1, 2012.

(7) This subdivision shall not apply to any of the following:

(A) Contracts that have been nonrenewed.

(B) Contracts with cities.

(C) Open-space or agricultural easements.

(D) Scenic restrictions.

(E) Wildlife habitat contracts.

(F) Atypical term contracts, including, but not limited to, 20-year initial term contracts declining to 10 years, or reencumbrances pursuant to Section 51295, if the county's board of supervisors determines the application of this subdivision to them would be inequitable or administratively infeasible.
(Amended by Stats. 2014, Ch. 322, Sec. 5.)

§ 51244.3. (a) This section shall apply to properties under a 9-year or 18-year contract, as the case may be, pursuant to subdivision (b) of Section 51244. Notwithstanding any other provision to the contrary, increased revenues generated by those properties shall be allocated exclusively to the respective counties in which those properties are located.

(b) This section shall only apply if the county makes a determination pursuant to either Section 16142 or 16142.1.
(Amended by Stats. 2014, Ch. 322, Sec. 7.)

§ 51244.5. Notwithstanding the provisions of Section 51244, if the initial term of the contract is for more than 10 years, the contract may provide that on the anniversary date of the contract or such other annual date as specified by the contract beginning with the anniversary date on which the contract will have an unexpired term of nine years, a year shall be added automatically to the initial term unless notice of nonrenewal is given as provided in Section 51245.
(Amended by Stats. 1978, Ch. 1120.)

§ 51245. If either the landowner or the city or county desires in any year not to renew the contract, that party shall serve written notice of nonrenewal of the contract upon the other party in advance of the annual renewal date of the contract. Unless such written notice is served by the landowner at least 90 days prior to the renewal date or by the city or county at least 60 days prior to the renewal date, the contract shall be considered renewed as provided in Section 51244 or Section 51244.5.

Upon receipt by the owner of a notice from the county or city of nonrenewal, the owner may make a written protest of the notice of nonrenewal. The county or city may, at any time prior to the renewal date, withdraw the notice of nonrenewal. Upon request by the owner, the board or council may authorize the owner to serve a notice of nonrenewal on a portion of the land under a contract.

Within 30 days of the receipt of a notice of nonrenewal from a landowner, the service of a notice of nonrenewal upon a landowner, or the withdrawal of a notice of nonrenewal, the city or county shall deliver a copy of the notice or a notice of withdrawal of nonrenewal to the Director of Conservation.

No later than 20 days after a city or county receives a notice of nonrenewal from a landowner, serves a notice of nonrenewal upon a landowner, or withdraws a notice of nonrenewal, the clerk of the board or council, as the case may be, shall record with the county recorder a copy of the notice of nonrenewal or notice of withdrawal of nonrenewal.
(Amended by Stats. 1992, Ch. 273, Sec. 1. Effective January 1, 1993.)

§ 51246. (a) If the county or city or the landowner serves notice of intent in any year not to renew the contract, the existing contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract, as the case may be. Within 30 days of the expiration of the contract, the county or city shall deliver a notice of expiration to the Director of Conservation.

(b) No city or county shall enter into a new contract or shall renew an existing contract on or after February 28, 1977, with respect to timberland zoned as timberland production. The city or county shall serve notice of its intent not to renew the contract as provided in this section.

(c) In order to meet the minimum acreage requirement of an agricultural preserve pursuant to Section 51230, land formerly within the agricultural preserve which is zoned as timberland production pursuant to Chapter 6.7 (commencing with Section 51100) may be taken into account.

(d) Notwithstanding any other provision of law, commencing with the lien date for the 1977–78 fiscal year all timberland within an existing contract which has been nonrenewed as mandated by this section shall be valued according to Section 423.5 of the Revenue and Taxation Code, succeeding to and including the lien date for the 1981–82 fiscal year. Commencing with the lien date for the 1982–83 fiscal year and on each lien date thereafter, such timberland shall be valued according to Section 434.5 of the Revenue and Taxation Code.
(Amended by Stats. 1989, Ch. 943, Sec. 4.)

§ 51247. The landowner shall furnish the city or county with such information as the city or county shall require in order to enable it to determine the eligibility of the land involved.
(Added by renumbering Section 51249 by Stats. 1969, Ch. 1372.)

§ 51248. No later than 20 days after a city or county enters into a contract with a landowner pursuant to this chapter, the clerk of the board or council, as the case may be, shall record with the county recorder a copy of the contract, which shall describe the land subject thereto, together with a reference to the map showing the location of the agricultural preserve in which the property lies. From and after the time of such recordation such contract shall impart such notice thereof to all persons as is afforded by the recording laws of this state.
(Added by renumbering Section 51250 by Stats. 1969, Ch. 1372.)

§ 51248.5. Whenever any city or county is required to record any contract by this chapter, it may file a fictitious contract. Thereafter, any of the provisions of such fictitious contract may be included by reference in any contract required to be filed by this chapter. The provisions of Section 2952 of the Civil Code relating to the filing, indexing, and force and effect of fictitious mortgages shall be applicable to such fictitious contracts.
(Added by Stats. 1978, Ch. 1120.)

§ 51249. Within 30 days after a form of contract is first used, the clerk of the board or council shall file with the Director of Conservation a sample copy of each form of contract and any land use restrictions applicable thereto.
(Amended by Stats. 1984, Ch. 851, Sec. 2.)

§ 51250. (a) The purpose of this section is to identify certain structures that constitute material breaches of contract under this chapter and to provide an alternate remedy to a contract cancellation petition by the landowner. Accordingly, this remedy is in addition to any other available remedies for breach of contract. Except as expressly provided in this section, this section is not intended to change the existing land use decisionmaking and enforcement authority of cities and counties including the authority conferred upon them by this chapter to administer agricultural preserves and contracts.

(b) For purposes of this section, a breach is material if, on a parcel under contract, both of the following conditions are met:

(1) A commercial, industrial, or residential building is constructed that is not allowed by this chapter or the contract, local uniform rules or ordinances consistent with the provisions of this chapter, and that is not related to an agricultural use or compatible use.

(2) The total area of all of the building or buildings likely causing the breach exceeds 2,500 square feet for either of the following:

(A) All property subject to any contract or all contiguous property subject to a contract or contracts owned by the same landowner or landowners on January 1, 2004.

(B) All property subject to a contract entered into after January 1, 2004, covering property not subject to a contract on January 1, 2004.

For purposes of this subdivision any additional parcels not specified in the legal description that accompanied the contract, as it existed prior to January 1, 2003, including any parcel created or recognized within an existing contract by subdivision, deed, partition, or, pursuant to Section 66499.35, by certificate of compliance, shall not increase the limitation of this subdivision.

(c) The department shall notify the city or county if the department discovers a possible breach.

(d) The city or county shall, upon notification by the department or upon discovery by the city or county of a possible material breach, determine if there is a valid contract and if it is likely that the breach is material. In its investigation, the city or county shall endeavor to contact the landowner or his or her representative to learn the landowner's explanation of the facts and circumstances related to the possible material breach.

(e) Within 10 days of determining whether it is likely that a material breach exists, the city or county shall notify the landowner and the department by certified mail, return receipt requested. This notice shall include the reasons for the determination and a copy of the contract. If either the landowner or the department objects to the preliminary determination of the city or county, the board or council shall schedule a public hearing as provided in subdivision (g).

(f) Within 60 days of receiving notice that it is likely a material breach, the landowner or his or her representative may notify the city or the county that the landowner intends to eliminate the conditions that resulted in the material breach within 60 days. If the landowner eliminates the conditions that resulted in the material breach within 60 days, the city or county shall take no further action under this section with respect to the building at issue. If the landowner notifies the city or county of the intention to eliminate the conditions but fails to do so, the city or county shall proceed with the hearing required in subdivision (g).

(g) The city or county shall schedule a hearing no more than 120 days after the notice is provided to the landowner and the department, as required in subdivision (e). The city or county shall give notice of

the public hearing by certified mail, return receipt requested to the landowner and the department at least 30 days prior to the hearing. The city or county shall give notice of the public hearing by first-class mail to every owner of land under contract, any portion of which is situated within one mile of the exterior boundary of the contracted parcel on which the likely material breach exists. The city or county shall also give published notice pursuant to Section 6061. The notice shall include the date, time, and place of the public hearing. Not less than five days before the hearing, the department may request that the city or county provide the department, at the department's expense, a recorded transcript of the hearing not more than 30 days after the hearing.

(h) At the public hearing, the city or county shall consider any oral or written testimony and then determine whether a material breach exists. The city or county shall support its determination with findings, made on the record and based on substantial evidence, that the property does or does not meet the conditions specified in subdivision (b).

(i) If the city or county determines that a material breach exists, the city or county shall do one of the following:

(1) Order the landowner to eliminate the conditions that resulted in the material breach within 60 days.

(2) Assess the monetary penalty pursuant to subdivision (j) and terminate the contract on that portion of the contracted parcel that has been made incompatible by the material breach.

If the landowner disagrees with the determination, he or she may pursue any other legal remedy that is available.

(j) The monetary penalty shall be 25 percent of the unrestricted fair market value of the land rendered incompatible by the breach, plus 25 percent of the value of the incompatible building and any related improvements on the contracted land. The basis for the valuation of the penalty shall be an independent appraisal of the current unrestricted fair market value of the property that is subject to the contract and affected by the incompatible use or uses, and a valuation of any buildings and any related improvements within the area affected by the incompatible use or uses. If the city or county determines that equity would permit a lesser penalty, the city or county, the landowner, and the department may negotiate a reduction in the penalty based on the factors specified in subdivision (k), but a reduction in the penalty may not exceed one-half of the penalty. If negotiations are to be held, the city or county shall provide the department 15 days' notice before the first negotiation. If the department chooses not to be a negotiator or fails to send a negotiator, the city or county and the landowner may negotiate the penalty.

(k) In determining the amount of a lesser penalty, the negotiators shall consider:

(1) The nature, circumstances, extent, and gravity of the material breach.

(2) Whether the landowner's actions were willful, knowing, or negligent with respect to the material breach.

(3) The landowner's culpability in contributing to the material breach and whether the actions of prior landowners subject to the contract contributed to the material breach.

(4) Whether the actions of the city or county contributed to the material breach.

(5) Whether the landowner notified the city or county that the landowner would eliminate the conditions that resulted in the material breach within 30 days, but failed to do so.

(6) The willingness of the landowner to rapidly resolve the issue of the material breach.

(7) Any other mitigating or aggravating factors that justice may require.

(l) If the landowner is ordered to eliminate the conditions that resulted in the material breach pursuant to paragraph (1) of subdivision (i) but the landowner fails to do so within the time specified by the city or county, the city or county may abate the material breach as a public nuisance pursuant to any applicable provisions of law.

(m) If the city or county terminates the contract pursuant to paragraph (2) of subdivision (i), the city or county shall record a notice of termination following the procedures of Section 51283.4.

(n) The assessment of a monetary penalty pursuant to subdivision (i) shall be secured by a lien payable to the county treasurer of the county within which the property is located, in the amount assessed pursuant to subdivision (j) or (k). Once properly recorded and indexed, the lien shall have the force, effect, and priority of a judgment lien. The lien document shall provide both of the following:

(1) The name of the real property owner of record and shall contain either the legal description or the assessor's parcel number of the real property to which the lien attaches.

(2) A direct telephone number and address that interested parties may contact to determine the final amount of any applicable assessments and penalties owing on the lien pursuant to this section.

(o) If the lien is not paid within 60 days of recording, simple interest shall accrue on the unpaid penalty at the rate of 10 percent per year, and shall continue to accrue until the penalty is paid, prior to all other claims except those with superior status under federal or state law.

(p) Upon payment of the lien, the city or county shall record a release of lien and a certificate of contract termination by breach with the county recorder for the land rendered incompatible by the breach.

(q) The city or county may deduct from any funds received pursuant to this chapter the amount of the actual costs of administering this section and shall transmit the balance of the funds by the county treasurer to the Controller for deposit in the Soil Conservation Fund.

(r) (1) The department may carry out the responsibilities of a city or county under this section if any of the following occurs:

(A) The city or county fails to determine whether there is a material breach within 210 days of the discovery of the breach.

(B) The city or county fails to complete the requirements of this section within 180 days of the determination that a material breach exists.

(2) The city or county may request in writing to the department, the department's approval for an extension of time for the city or county to act and the reasons for the extension. Approval may not be unreasonably withheld by the department.

(3) The department shall notify the city or county 30 days prior to its exercise of any responsibility under this subdivision.

(4) This section shall not be construed to limit the authority of the Secretary of the Resources Agency under Section 16146 or 16147.

(s) (1) This section does not apply to any of the following:

(A) A building constructed prior to January 1, 2004, or a building for which a permit was issued by a city or county prior to January 1, 2004.

(B) A building that was not a material breach at the time of construction but became a material breach because of a change in law or ordinance.

(C) A building owned by the state.

(2) Subject to paragraphs (4) and (5), this section does not apply when a board or council cancels a contract pursuant to Article 5 (commencing with Section 51280), or a city terminates a contract pursuant to Section 51243.5, or when a public agency, as defined by subdivision (a) of Section 51291, acquires land subject to contract by, or in lieu of, eminent domain pursuant to Article 6 (commencing with Section 51290) unless either of the following occurs:

(A) The action terminating the contract is rescinded.

(B) A court determines that the cancellation or termination was not properly executed pursuant to this chapter, or that the land continues to be subject to the contract.

(3) On the motion of any party with standing to bring an action for breach, any court hearing an action challenging the termination of a contract entered into under this chapter shall consolidate any action for breach, including the remedies for material breach available pursuant to this section.

(4) Paragraph (2) shall not be applicable for a cancellation or termination occurring after January 1, 2004, unless the affected landowner provides to the administering board or council and to the department, within 30 days after the cancellation or termination, a notarized statement, in a form acceptable to the department, signed under penalty of perjury and filed with the county recorder, acknowledging that the breach provisions of this section may apply if any of the following conditions are met:

(A) The action by the local government is rescinded.

(B) A court permanently enjoins, voids, or rescinds the cancellation or termination.

(C) For any other reason, the land continues to be subject to the contract.

(5) Paragraph (2) does not apply for a cancellation or termination occurring before January 1, 2004, unless the landowner provides the statement required in paragraph (4) prior to the approval of a building permit necessary for the construction of a commercial, industrial, or residential building.

(t) It is the intent of the Legislature to encourage cities and counties, in consultation with contracting landowners and the department, to review existing Williamson Act enforcement programs and consider any additions or improvements that would make local enforcement more effective, equitable, or widely acceptable to the affected landowners. Cities and counties are also encouraged to include enforcement provisions within the terms of the contracts, with the consent of contracting landowners.

(u) The department and the city or county may agree to extend any deadline to act under this section, upon the request of the city and county, and the written approval of the director of the department.

(v) In order to promote the reasonable and equitable resolution of a potential material breach, if a potential material breach involves extenuating circumstances, the city or county and the landowner may agree to request that the department meet and confer with them for the purpose of developing a resolution of the potential material breach. If the department agrees to meet and confer with the landowner and city or county, the time requirements specified in this section shall be tolled. The resolution may include remedies authorized by law or not prohibited by law that are agreed to by the landowner, city or county, and department. If the resolution resolves all outstanding issues under this section, the city or county shall terminate all proceedings pursuant to this section upon execution by the landowner, city or county, and department. The agreement executing the resolution shall be recorded in the county in which the affected parcel is located.

(w) A city or county shall not cancel a contract pursuant to Article 5 (commencing with Section 51280) to resolve a material breach except pursuant to this section.

(Amended by Stats. 2008, Ch. 503, Sec. 3. Effective January 1, 2009.)

§ 51251. The county, city, or landowner may bring any action in court necessary to enforce any contract, including, but not limited to, an action to enforce the contract by specific performance or injunction. An owner of land may bring any action in court to enforce a contract on land whose exterior boundary is within one mile of his land. An owner of land under contract may bring any action in court to enforce a contract on land located within the same county or city.

(Amended by Stats. 1978, Ch. 1120.)

§ 51252. Open-space land under a contract entered into pursuant to this chapter shall be enforceably restricted within the meaning and for the purposes of Section 8 of Article XIII of the State Constitution and shall be enforced and administered by the city or county in such a manner as to accomplish the purposes of that article and of this chapter.
(Amended by Stats. 1974, Ch. 311.)

§ 51253. Any contract or agreement entered into pursuant to this chapter prior to the 61st day following final adjournment of the 1969 Regular Session of the Legislature may be amended to conform with the provisions of this act as amended at that session upon the mutual agreement of all parties. Approval of these amendments to a contract by the Director of Conservation shall not be required.
(Amended by Stats. 1984, Ch. 851, Sec. 3.)

§ 51254. Notwithstanding any other provision of this chapter, the parties may upon their mutual agreement rescind a contract in order simultaneously to enter into a new contract pursuant to this chapter, which new contract would enforceably restrict the same property for an initial term at least as long as the unexpired term of the contract being so rescinded but not less than 10 years. Such action may be taken notwithstanding the prior serving of a notice of nonrenewal relative to the former contract.
(Added by Stats. 1977, Ch. 495.)

§ 51255. (a) Notwithstanding any other provision of this chapter, the parties may upon their mutual agreement rescind a contract in order simultaneously to enter into an open-space easement agreement pursuant to the Open-Space Easement Act of 1974 (Chapter 6.6 (commencing with Section 51070)), provided that the easement is consistent with the Williamson Act (this chapter) for the duration of the original Williamson Act contract. The easement would enforceably restrict the same property for an initial term of not less than 10 years and would not be subject to the provisions of Article 4 (commencing with Section 51090) of Chapter 6.6. This action may be taken notwithstanding the prior serving of a notice of nonrenewal, and the land subject to the contract shall be assessed pursuant to Section 423 of the Revenue and Taxation Code.

(b) This section shall not apply to any agreement entered into on or before August 12, 1998.
(Amended by Stats. 1998, Ch. 690, Sec. 3. Effective January 1, 1999.)

§ 51255.1. (a) Notwithstanding any other provision of this chapter, the parties may upon their mutual agreement rescind a contract for a parcel or parcels of land that, upon review and approval, are determined by the Department of Conservation to be eligible to be placed into a solar-use easement pursuant to Section 51191, in order to simultaneously enter into a solar-use easement pursuant to Chapter 6.9 (commencing with Section 51190). This action may be taken notwithstanding the prior serving of a notice of nonrenewal.

(b) Nothing in this section limits the ability of the parties to a contract to seek nonrenewal, or petition for cancellation or termination of a contract pursuant to this chapter. This section is provided in addition to, not in replacement of, other methods for contract termination, Williamson Act compliance, or a county finding that a solar facility is a compatible use pursuant to this chapter.

(c)(1) Prior to the board or council agreeing to mutually rescind a contract pursuant to this section, the county assessor of the county in which the land is located shall determine the current fair market value of the land as though it were free of the contractual restriction. The assessor shall certify to the board or council the fair market valuation of the land for the purpose of determining the rescission fee. At the same time, the assessor shall send a notice to the landowner and the Department of Conservation indicating the current fair market value of the land as though it were free of the contractual restriction and advise the parties, that upon their request, the assessor shall provide all information relevant to the valuation, excluding

third-party information. If any information is confidential or otherwise protected from release, the department and the landowner shall hold it as confidential and return or destroy any protected information upon termination of all actions relating to valuation or rescission of the contract on the property. The notice shall also advise the landowner and the department of the opportunity to request formal review from the assessor.

(2) Prior to agreeing to mutually rescind a contract pursuant to this section, the board or council shall determine and certify to the county auditor the amount of the rescission fee that the landowner shall pay the county treasurer upon rescission. That fee shall be an amount equal to 10 percent of the fair market valuation of the property for land that was held under a contract pursuant to Section 51240 or if the property was designated as a farmland security zone.

(3) When rescission fees required by this subdivision are collected, 50 percent of the fee shall, within 30 days of the execution of the mutual rescission of the contract by the parties, be transmitted by the county treasurer to the Controller and deposited in the General Fund, except as provided in subdivision (b) of Section 51203 or subdivision (d) of Section 51283.

(4) It is the intent of the Legislature that fees paid to rescind a contract do not constitute taxes but are payments that, when made, provide a private benefit that tends to increase the value of the property.

(d) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.
(Amended by Stats. 2014, Ch. 582, Sec. 1.)

§ 51256. Notwithstanding any other provision of this chapter, a city or county, upon petition by a landowner, may enter into an agreement with the landowner to rescind a contract in accordance with the contract cancellation provisions of Section 51282 in order to simultaneously place other land within that city, the county, or the county where the contract is rescinded under an agricultural conservation easement, consistent with the purposes and, except as provided in subdivision (b), the requirements of the California Farmland Conservancy pursuant to Division 10.2 (commencing with Section 10200) of the Public Resources Code, provided that the board or council makes all of the following findings:

(a) The proposed agricultural conservation easement is consistent with the criteria set forth in Section 10251 of the Public Resources Code.

(b) The proposed agricultural conservation easement is evaluated pursuant to the selection criteria in Section 10252 of the Public Resources Code, and particularly subdivisions (a), (c), (e), (f), and (h), and the board or council makes a finding that the proposed easement will make a beneficial contribution to the conservation of agricultural land in its area.

(c) The land proposed to be placed under an agricultural conservation easement is of equal size or larger than the land subject to the contract to be rescinded, and is equally or more suitable for agricultural use than the land subject to the contract to be rescinded. In determining the suitability of the land for agricultural use, the city or county shall consider the soil quality and water availability of the land, adjacent land uses, and any agricultural support infrastructure.

(d) The value of the proposed agricultural conservation easement, as determined pursuant to Section 10260 of the Public Resources Code, is equal to or greater than either of the following:

(1) Twelve and one-half percent of the cancellation valuation of the land subject to the contract to be rescinded, pursuant to subdivision (a) of Section 51283.

(2) Twenty-five percent of the cancellation valuation of the land subject to the contract to be rescinded pursuant to paragraph (3) of subdivision (c) of Section 51297, if the contract was entered into pursuant to Article 7 (commencing with Section 51296).

(e) The easement value and the cancellation valuation shall be determined within 90 days before the approval of the city or county of an agreement pursuant to this section.
(Amended by Stats. 2008, Ch. 503, Sec. 4. Effective January 1, 2009.)

§ 51256.1. No agreement entered into pursuant to Section 51256 shall take effect until it is approved by the Director of Conservation. The director may approve the agreement if he or she finds that the findings of the board or council, as required by Sections 51256 and 51282, are supported by substantial evidence, and that the proposed agricultural conservation easement is consistent with the eligibility criteria set forth in Section 10251 of the Public Resources Code and will make a beneficial contribution to the conservation of agricultural land in its area. The director shall not approve the agreement if an agricultural conservation easement has been purchased with funds from the Agricultural Land Stewardship Program Fund, established pursuant to Section 10230 of the Public Resources Code, on the same land proposed to be placed under an agricultural conservation easement pursuant to this section.
(Added by Stats. 1999, Ch. 994, Sec. 2. Effective January 1, 2000. See similar provisions, with a substantive difference, in the prevailing Section 51256.1 added by Stats. 1999, Ch. 1018.)

§ 51256.1. No agreement entered into pursuant to Section 51256 shall take effect until it is approved by the Secretary of Resources. The secretary may approve the agreement if he or she finds that the findings of the board or council, as required by Sections 51256 and 51282, are supported by substantial evidence, and that the proposed agricultural conservation easement is consistent with the eligibility criteria set forth in Section 10251 of the Public Resources Code and will make a beneficial contribution to the conservation of agricultural land in its area. The secretary shall not approve the agreement if an agricultural conservation easement has been purchased with funds from the Agricultural Land Stewardship Program Fund, established pursuant to Section 10230 of the Public Resources Code, on the same land proposed to be placed under an agricultural conservation easement pursuant to this section.
(Added by Stats. 1999, Ch. 1018, Sec. 6. Effective January 1, 2000.)

§ 51256.2. (a) One or more cities or counties may adopt a plan for implementing the provisions of Section 51256 with respect to multiple transactions within one or more specific areas, and submit the plan to the director for his or her approval. The plan may be approved only upon a determination by the director that it is consistent with the provisions of Section 51256. Thereafter individual transactions shall be approved if they are consistent with the approved plan.

(b) Notwithstanding Section 51256, this section shall apply only to lands under contract located in the Counties of San Bernardino and Riverside, within the area bounded by Interstate 10 on the north, State Route 71 on the west, State Route 91 on the south, and a line two miles east of Interstate 15 on the east, and to easements within that area or within 10 miles of its exterior boundaries and within either Riverside County or San Bernardino County. For the purpose of this section, easements located within the described area may be related to contract rescissions in either county.

(c) The Legislature finds and declares that, because of the unique factors applicable only to the Chino Basin, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Those unique circumstances are that the Chino agricultural preserve is undergoing transition from agricultural to nonagricultural uses and the affected areas comprise more than a single jurisdiction. Therefore, a multijurisdictional approach is necessary.
(Amended by Stats. 2000, Ch. 431, Sec. 1. Effective January 1, 2001.)

§ 51256.3. For the purposes of facilitating long-term agricultural land conservation in the Sacramento-San Joaquin Delta, an agricultural conservation easement located within the primary or secondary zone of the delta, as defined in Sections 29728 and 29731 of the Public Resources Code, may be related to contract rescissions in any other portion of the secondary zone without respect to county boundary limitations contained in an agricultural conservation easement agreement pursuant to Section 51256.
(Added by Stats. 2006, Ch. 547, Sec. 1. Effective January 1, 2007.)

§ 51257. (a) To facilitate a lot line adjustment, pursuant to subdivision (d) of Section 66412, and notwithstanding any other provision of this chapter, the parties may mutually agree to rescind the contract or contracts and simultaneously enter into a new contract or contracts pursuant to this chapter, provided that the board or council finds all of the following:

(1) The new contract or contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded contract or contracts, but for not less than 10 years.

(2) There is no net decrease in the amount of the acreage restricted. In cases where two parcels involved in a lot line adjustment are both subject to contracts rescinded pursuant to this section, this finding will be satisfied if the aggregate acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts.

(3) At least 90 percent of the land under the former contract or contracts remains under the new contract or contracts.

(4) After the lot line adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use, as defined in Section 51222.

(5) The lot line adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts.

(6) The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.

(7) The lot line adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the general plan.

(b) Nothing in this section shall limit the authority of the board or council to enact additional conditions or restrictions on lot line adjustments.

(c) Only one new contract may be entered into pursuant to this section with respect to a given parcel, prior to January 1, 2004.
(Amended by Stats. 2012, Ch. 128, Sec. 1. Effective January 1, 2013.)

§ 51257.5. (a) If the state fails to make payments to a city or county pursuant to Section 16142 or 16142.1, or if the state provides a reduced subvention, a city or county may accept contributions from a nonprofit land-trust organization, a nonprofit entity, or a public agency for specific land under a contract within the city or county to supplement foregone property tax revenues pursuant to this section.

(b) (1) A nonprofit land-trust organization, nonprofit entity, or public agency may contract with an owner of land currently under a contract pursuant to this chapter, upon approval of the contract by the city or county, for a period of up to 10 years, to keep the landowner's property under contract with the county pursuant to this chapter, in exchange for the contribution by the nonprofit land-trust organization or nonprofit entity's payment for an equivalent period of years of all or a portion of the foregone property tax revenue to the city or county.

(2) A contract entered into pursuant to this subdivision shall be subject to any limitation in power of a nonprofit land-trust organization, nonprofit entity, or public agency.

(3) A contract entered into pursuant to this subdivision shall not authorize or require the conversion of land subject to the contract into a mitigation bank site.

(c) In implementing this section, a city or county shall not request or require additional conditions or restrictions on the land or the landowner for existing or future contracts.

(d) This section shall not be construed as a limitation on the right of a landowner to engage in other lawful contracts or transactions with respect to their land, including, but not limited to, contracts entered into pursuant to this chapter.

(e) As used in this section, "nonprofit land-trust organization" means a nonprofit land-trust organization as defined in subdivision (b) of Section 5011.7 of the Public Resources Code.

(f) No contract shall be entered into on or after January 1, 2016, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

(Added by Stats. 2011, Ch. 254, Sec. 1. Effective January 1, 2012.)

Article 5. **Cancellation**

[51280-51287] (Article 5 added by Stats. 1965, Ch. 1443.)

§ 51280. It is hereby declared that the purpose of this article is to provide relief from the provisions of contracts entered into pursuant to this chapter under the circumstances and conditions provided herein.
(Amended by Stats. 1981, Ch. 1095, Sec. 1.)

§ 51280.1. As used in this chapter, the finding of a board or council that "cancellation and alternative use will not result in discontiguous patterns of urban development" authorizes, but does not require, the board or council to cancel a contract if it finds that the alternative use will be rural in character and that the alternative use will result within the foreseeable future in a contiguous pattern of development within the relevant subregion. The board or council is not required to find that the alternative use will be immediately contiguous to like development. In rendering its finding, the board or council acts in its own discretion to evaluate the proposed alternative use according to existing and projected conditions within its local jurisdiction.

The provisions of this section shall apply only to those proceedings for the cancellation of contracts which were initiated pursuant to Section 51282.1, and, consistent with the provisions of Section 9 of Chapter 1095 of the Statutes of 1981, shall apply to the same extent as the provisions of Section 51282.1, notwithstanding their repeal.
(Added by Stats. 1983, Ch. 1296, Sec. 2.)

§ 51281. A contract may not be canceled except pursuant to a request by the landowner, and as provided in this article.
(Amended by Stats. 1969, Ch. 1372.)

§ 51281.1. The board or council may require the payment of a reasonable application fee to be made at the time a petition for cancellation is filed.
(Added by Stats. 1978, Ch. 1120.)

§ 51282. (a) The landowner may petition the board or council for cancellation of any contract as to all or any part of the subject land. The board or council may grant tentative approval for cancellation of a contract only if it makes one of the following findings:

(1) That the cancellation is consistent with the purposes of this chapter.

(2) That cancellation is in the public interest.

(b) For purposes of paragraph (1) of subdivision (a) cancellation of a contract shall be consistent with the purposes of this chapter only if the board or council makes all of the following findings:

(1) That the cancellation is for land on which a notice of nonrenewal has been served pursuant to Section 51245.

(2) That cancellation is not likely to result in the removal of adjacent lands from agricultural use.

(3) That cancellation is for an alternative use which is consistent with the applicable provisions of the city or county general plan.

(4) That cancellation will not result in discontiguous patterns of urban development.

(5) That there is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or, that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land. As used in this subdivision "proximate, noncontracted land" means land not restricted by contract pursuant to this chapter, which is sufficiently close to land which is so restricted that it can serve as a practical alternative for the use which is proposed for the restricted land.

As used in this subdivision "suitable" for the proposed use means that the salient features of the proposed use can be served by land not restricted by contract pursuant to this chapter. Such nonrestricted land may be a single parcel or may be a combination of contiguous or discontiguous parcels.

(c) For purposes of paragraph (2) of subdivision (a) cancellation of a contract shall be in the public interest only if the council or board makes the following findings: (1) that other public concerns substantially outweigh the objectives of this chapter; and (2) that there is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land.

As used in this subdivision "proximate, noncontracted land" means land not restricted by contract pursuant to this chapter, which is sufficiently close to land which is so restricted that it can serve as a practical alternative for the use which is proposed for the restricted land.

As used in this subdivision "suitable" for the proposed use means that the salient features of the proposed use can be served by land not restricted by contract pursuant to this chapter. Such nonrestricted land may be a single parcel or may be a combination of contiguous or discontiguous parcels.

(d) For purposes of subdivision (a), the uneconomic character of an existing agricultural use shall not by itself be sufficient reason for cancellation of the contract. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable agricultural use to which the land may be put.

(e) The landowner's petition shall be accompanied by a proposal for a specified alternative use of the land. The proposal for the alternative use shall list those governmental agencies known by the landowner to have permit authority related to the proposed alternative use, and the provisions and requirements of Section 51283.4 shall be fully applicable thereto. The level of specificity required in a proposal for a specified alternate use shall be determined by the board or council as that necessary to permit them to make the findings required.

(f) In approving a cancellation pursuant to this section, the board or council shall not be required to make any findings other than or in addition to those expressly set forth in this section, and, where applicable, in Section 21081 of the Public Resources Code.

(g) A board or council shall not accept or approve a petition for cancellation if the land for which the cancellation is sought is currently subject to the process specified in Section 51250, unless the cancellation is a part of the process specified in Section 51250.

(Amended by Stats. 2008, Ch. 503, Sec. 6. Effective January 1, 2009.)

§ 51282.3. (a) The landowner may petition the board or council, pursuant to Section 51282, for cancellation of any contract or of any portion of a contract if the board or council has determined that agricultural laborer housing is not a compatible use on the contracted lands. The petition, and any subsequent cancellation based thereon, shall (1) particularly describe the acreage to be subject to cancellation; (2) stipulate that the purpose of the cancellation is to allow the land to be used exclusively for agricultural laborer housing facilities; (3) demonstrate that the contracted lands, or portion thereof, for which cancellation is being sought are reasonably necessary for the development and siting of agricultural laborer housing; and (4) certify that the contracted lands, or portion thereof, for which cancellation is being sought, shall not be converted to any other alternative use within the first 10 years immediately following the cancellation.

The petition shall be deemed to be a petition for cancellation for a specified alternative use of the land. The petition shall be acted upon by the board or council in the manner prescribed in Section 51283.4. However, the provisions of Section 51283 pertaining to the payment of cancellation fees shall not be imposed except as provided in subdivision (b).

(b) If the owner of real property is issued a certificate of cancellation of contract based on subdivision (a), there shall be executed and recorded concurrently with the recordation of the certificate of cancellation of contract, a lien in favor of the county, city or city and county in the amount of the fees which would otherwise have been imposed pursuant to Section 51283. Those amounts shall bear interest at the rate of 10 percent per annum. The lien shall particularly describe the real property subject to the lien, shall be recorded in the county where the real property subject to the lien is located, and shall be indexed by the recorder in the grantor index to the name of the owner of the real property and in the grantee index in the name of the county or city or city and county. From the date of recordation, the lien shall have the force, effect and priority of a judgment lien. The board or council shall execute and record a release of lien if, after a period of 10 years from the date of the recordation of the certificate of cancellation of contract, the real property subject to the lien has not been converted to a use other than agricultural laborer housing. In the event the real property subject to the lien has been converted to a use other than agricultural laborer housing, or the construction of agricultural laborer housing has not commenced within a period of one year from the date of recordation of the certificate of cancellation of contract, then the lien shall only be released upon payment of the fees and interest for which the lien has been imposed. Where construction commences after the one-year period, the amount of the interest shall only be for that period from one year following the date of the recordation of the certificate of cancellation of contract until the actual commencement of construction.

(Amended by Stats. 1999, Ch. 1018, Sec. 8. Effective January 1, 2000.)

§ 51282.5. The owner of any land which has been zoned as a timberland production pursuant to Section 51112 or 51113, and that zoning has been recorded as provided in Section 51117, may petition the board or council for cancellation of any contract as to all or part of the land. Upon petition, the board or council shall approve the cancellation of the contract.

The provisions of Section 51283 shall not apply to any cancellation under this section, and no cancellation fee shall be imposed.
(Amended by Stats. 1982, Ch. 1489, Sec. 30.)

§ 51283. (a) Prior to any action by the board or council giving tentative approval to the cancellation of any contract, the county assessor of the county in which the land is located shall determine the current fair market value of the land as though it were free of the contractual restriction. The assessor shall certify to the board or council the cancellation valuation of the land for the purpose of determining the cancellation fee. At the same time, the assessor shall send a notice to the landowner and the Department of Conservation indicating the current fair market value of the land as though it were free of the contractual restriction and advise the parties, that upon their request, the assessor shall provide all information relevant to the valuation, excluding third-party information. If any information is confidential or otherwise protected from release, the department and the landowner shall hold it as confidential and return or destroy any protected information upon termination of all actions relating to valuation or cancellation of the contract on the property. The notice shall also advise the landowner and the department of the opportunity to request formal review from the assessor.

(b) Prior to giving tentative approval to the cancellation of any contract, the board or council shall determine and certify to the county auditor the amount of the cancellation fee that the landowner shall pay the county treasurer upon cancellation. That fee shall be an amount equal to 121/2 percent of the cancellation valuation of the property.

(c) If it finds that it is in the public interest to do so, the board or council may waive any payment or any portion of a payment by the landowner, or may extend the time for making the payment or a portion of the payment contingent upon the future use made of the land and its economic return to the landowner for a period of time not to exceed the unexpired period of the contract, had it not been canceled, if all of the following occur:

(1) The cancellation is caused by an involuntary transfer or change in the use which may be made of the land and the land is not immediately suitable, nor will be immediately used, for a purpose which produces a greater economic return to the owner.

(2) The board or council has determined that it is in the best interests of the program to conserve agricultural land use that the payment be either deferred or is not required.

(3) The waiver or extension of time is approved by the Secretary of the Resources Agency. The secretary shall approve a waiver or extension of time if the secretary finds that the granting of the waiver or extension of time by the board or council is consistent with the policies of this chapter and that the board or council complied with this article. In evaluating a request for a waiver or extension of time, the secretary shall review the findings of the board or council, the evidence in the record of the board or council, and any other evidence the secretary may receive concerning the cancellation, waiver, or extension of time.

(d) The first two million five hundred thirty-six thousand dollars ($2,536,000) of revenue paid to the Controller pursuant to subdivision (e) in the 2004–05 fiscal year, and any other amount as approved in the final Budget Act for each fiscal year thereafter, shall be deposited in the Soil Conservation Fund, which is continued in existence. The money in the fund is available, when appropriated by the Legislature, for the support of all of the following:

(1) The cost of the farmlands mapping and monitoring program of the Department of Conservation pursuant to Section 65570.

(2) The soil conservation program identified in Section 614 of the Public Resources Code.

(3) Program support costs of this chapter as administered by the Department of Conservation.

(4) Program support costs incurred by the Department of Conservation in administering the open-space subvention program (Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2).

(5) The costs to the Department of Conservation for administering Section 51250.

(e) When cancellation fees required by this section are collected, they shall be transmitted by the county treasurer to the Controller and deposited in the General Fund, except as provided in subdivision (d) of this section and subdivision (b) of Section 51203. The funds collected by the county treasurer with respect to each cancellation of a contract shall be transmitted to the Controller within 30 days of the execution of a certificate of cancellation of contract by the board or council, as specified in subdivision (b) of Section 51283.4.

(f) It is the intent of the Legislature that fees paid to cancel a contract do not constitute taxes but are payments that, when made, provide a private benefit that tends to increase the value of the property. *(Amended by Stats. 2008, Ch. 503, Sec. 7. Effective January 1, 2009.)*

§ 51283.4. (a) Upon tentative approval of a petition accompanied by a proposal for a specified alternative use of the land, the clerk of the board or council shall record in the office of the county recorder of the county in which is located the land as to which the contract is applicable a certificate of tentative cancellation, which shall set forth the name of the landowner requesting the cancellation, the fact that a certificate of cancellation of contract will be issued and recorded at the time that specified conditions and contingencies are satisfied, a description of the conditions and contingencies which must be satisfied, and a legal description of the property. Conditions to be satisfied shall include payment in full of the amount of the fee computed under the provisions of Section 51283, together with a statement that unless the fee is paid, or a certificate of cancellation of contract is issued within one year from the date of the recording of the certificate of tentative cancellation, the fee shall be recomputed as of the date of notice described in subdivision (b) or the date the landowner requests a recomputation. A landowner may request a recomputation when he or she believes that he or she will be able to satisfy the conditions and contingencies of the certificate of cancellation within 180 days. The board or council shall request the assessor to recompute the cancellation valuation. The assessor shall recompute the valuation, certify it to the board or council, and provide notice to the Department of Conservation and landowner as provided in subdivision (a) of Section 51283, and the board or council shall certify the fee to the county auditor. Any provisions related to the waiver of the fee or portion thereof shall be treated in the manner provided for in the certificate of tentative cancellation. Contingencies to be satisfied shall include a requirement that the landowner obtain all permits necessary to commence the project. The board or council may, at the request of the landowner, amend a tentatively approved specified alternative use if it finds that the amendment is consistent with the findings made pursuant to subdivision (a) of Section 51282.

(b) The landowner shall notify the board or council when he or she has satisfied the conditions and contingencies enumerated in the certificate of tentative cancellation. Within 30 days of receipt of the notice, and upon a determination that the conditions and contingencies have been satisfied, the board or council shall execute a certificate of cancellation of contract, cause the certificate to be recorded, and send a copy to the Director of Conservation.

(c) If the landowner has been unable to satisfy the conditions and contingencies enumerated in the certificate of tentative cancellation, the landowner shall notify the board or council of the particular conditions or contingencies he or she is unable to satisfy. Within 30 days of receipt of the notice, and upon a determination that the landowner is unable to satisfy the conditions and contingencies listed, the board or

council shall execute a certificate of withdrawal of tentative approval of a cancellation of contract and cause the same to be recorded. However, the landowner shall not be entitled to the refund of any cancellation fee paid.
(Amended by Stats. 2005, Ch. 245, Sec. 3. Effective September 22, 2005.)

§ 51283.5. (a) The Legislature finds and declares that cancellation fees should be calculated in a timely manner and disputes over cancellation fees should be resolved before a city or county approves a tentative cancellation. However, the city or county may approve a tentative cancellation notwithstanding an assessor's formal review or judicial challenge to the cancellation value or fee.

(b) If the valuation changes after the approval of a tentative cancellation, the certificate of tentative cancellation shall be amended to reflect the correct valuation and cancellation fee.

(c) If the landowner wishes to pay a cancellation fee when a formal review has been requested, he or she may pay the fee required in the current certificate of cancellation and provide security determined to be adequate by the Department of Conservation for 20 percent of the cancellation fee based on the assessor's valuation. The board or council shall hold the security and release it immediately upon full payment of the cancellation fee determined pursuant to Section 51203.

(d) The city or county may approve a final cancellation notwithstanding a pending formal review or judicial challenge to the cancellation valuation or fee. The certificate of final cancellation shall include the following statements:

(1) That formal review or judicial challenge of the cancellation valuation or fee is pending.

(2) That the fee may be adjusted, based upon the outcome of the review or challenge.

(3) The identity of the party who will be responsible for paying any additional fee or will receive any refund.

(4) The form and amount of security provided by the landowner or other responsible party and approved by the Department of Conservation.

(e) Upon resolution, the landowner or the party identified in the certificate shall either pay the balance owed to the county treasurer, or receive from the county treasurer or the controller any amount of overpayment, and shall also be entitled to the immediate release of any security.

(f) (1) If a party does not receive the notice required pursuant to Section 51203, 51283, 51283.4, or 51284, a judicial challenge to the cancellation valuation may be filed within three years of the latest of the applicable following events:

(A) The board or council certification of the fee pursuant to subdivision (b) of Section 51283, or for fees recomputed pursuant to Section 51283.4, the execution of a certificate of cancellation under that section.

(B) The date of the assessor's determination pursuant to paragraph (3) of subdivision (b) of Section 51203.

(C) The service of notice to the Director of Conservation of the board or council's recorded certificate of final cancellation.

(2) If a party did receive the required notice pursuant to Section 51203, 51283, 51283.4, or 51284, a judicial challenge to the cancellation valuation may be filed only after the party has exhausted his or her administrative remedies through the formal review process specified in Section 51203, and only within 180 days of the latest of the applicable following events:

(A) The board or council certification of the fee pursuant to subdivision (b) of Section 51283 or for fees recomputed pursuant to Section 51283.4, the execution of a certificate of cancellation under that section.

(B) The date of the assessor's determination pursuant to paragraph (3) of subdivision (b) of Section 51203.

(C) The service of notice to the Director of Conservation or the board or council's recorded certificate of final cancellation.

(Amended by Stats. 2005, Ch. 245, Sec. 4. Effective September 22, 2005.)

§ 51284. No contract may be canceled until after the city or county has given notice of, and has held, a public hearing on the matter. Notice of the hearing shall be published pursuant to Section 6061 and shall be mailed to every owner of land under contract, any portion of which is situated within one mile of the exterior boundary of the land upon which the contract is proposed to be canceled. In addition, at least 10 working days prior to the hearing, a notice of the hearing and a copy of the landowner's petition shall be mailed to the Director of Conservation. Within 30 days of the tentative cancellation of the contract, the city or county shall publish a notice of its decision, including the date, time, and place of the public hearing, a general explanation of the decision, the findings made pursuant to Section 51282, and a general description, in text or by diagram, of the land under contract, as a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the city or county. In addition, within 30 days of the tentative cancellation of the contract, the city or county shall deliver a copy of the published notice of the decision, as described above, to the Director of Conservation. The publication shall be for informational purposes only, and shall create no right, standing, or duty that would otherwise not exist with regard to the cancellation proceedings.

(Amended by Stats. 1993, Ch. 89, Sec. 1. Effective January 1, 1994.)

§ 51284.1. (a) When a landowner petitions a board or council for the tentative cancellation of a contract and when the board or council accepts the application as complete pursuant to Section 65943, the board or council shall immediately mail a notice to the Director of Conservation. The notice shall include all of the following:

(1) A copy of the petition.

(2) A copy of the contract.

(3) A general description, in text or by diagram, of the land that is the subject of the proposed cancellation.

(4) The deadline for submitting comments regarding the proposed cancellation. That deadline shall be consistent with the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7), but in no case less than 30 days prior to the scheduled action by the board or council.

(b) The board or council shall send that information to the assessor that is necessary to describe the land subject to the proposed cancellation. The information shall include the name and address of the landowner petitioning the cancellation.

(c) The Director of Conservation shall review the proposed cancellation and submit comments to the board or council by the deadline specified in paragraph (4) of subdivision (a). Any comments submitted shall advise the board or council on the findings required by Section 51282 with respect to the proposed cancellation.

(d) Prior to acting on the proposed cancellation, the board or council shall consider the comments by the Director of Conservation, if submitted.

(e) The board or council may include the cancellation valuation, if available, of the land as part of the completed petition sent to the director.

(Amended by Stats. 2004, Ch. 794, Sec. 6. Effective January 1, 2005.)

§ 51285. The owner of any property located in the county or city in which the agricultural preserve is situated may protest such cancellation to the city or county conducting the hearing.
(Amended by Stats. 1969, Ch. 1372.)

§ 51286. (a) Any action or proceeding which, on the grounds of alleged noncompliance with the requirements of this chapter, seeks to attack, review, set aside, void, or annul a decision of a board of supervisors or a city council to cancel a contract shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure.

(b) The action or proceeding shall be commenced within 180 days from the date of the council or board order acting on a petition for cancellation filed under this chapter.
(Amended by Stats. 2001, Ch. 176, Sec. 12. Effective January 1, 2002.)

§ 51287. The city or county may impose a fee pursuant to Chapter 8 (commencing with Section 66016) of Division 1 of Title 7 for recovery of costs under this article. The fee shall not exceed an amount necessary to recover the reasonable cost of services provided by the city or county under this article.
(Amended by Stats. 1995, Ch. 686, Sec. 2. Effective October 10, 1995. Operative January 1, 1996, by Sec. 9 of Ch. 686.)

Article 6. Eminent Domain or Other Acquisition

[51290-51295] (Article 6 added by Stats. 1965, Ch. 1443.)

§ 51290. (a) It is the policy of the state to avoid, whenever practicable, the location of any federal, state, or local public improvements and any improvements of public utilities, and the acquisition of land therefor, in agricultural preserves.

(b) It is further the policy of the state that whenever it is necessary to locate such an improvement within an agricultural preserve, the improvement shall, whenever practicable, be located upon land other than land under a contract pursuant to this chapter.

(c) It is further the policy of the state that any agency or entity proposing to locate such an improvement shall, in considering the relative costs of parcels of land and the development of improvements, give consideration to the value to the public, as indicated in Article 2 (commencing with Section 51220), of land, and particularly prime agricultural land, within an agricultural preserve.
(Amended by Stats. 1998, Ch. 690, Sec. 5. Effective January 1, 1999.)

§ 51290.5. As used in this chapter, "public improvement" means facilities or interests in real property, including easements, rights-of-way, and interests in fee title, owned by a public agency or person, as defined in subdivision (a) of Section 51291.
(Amended by Stats. 1998, Ch. 690, Sec. 6. Effective January 1, 1999.)

§ 51291. (a) As used in this section and Sections 51292 and 51295, (1) "public agency" means any department or agency of the United States or the state, and any county, city, school district, or other local public district, agency, or entity, and (2) "person" means any person authorized to acquire property by eminent domain.

(b) Except as provided in Section 51291.5, whenever it appears that land within an agricultural preserve may be required by a public agency or person for a public use, the public agency or person shall

advise the Director of Conservation and the local governing body responsible for the administration of the preserve of its intention to consider the location of a public improvement within the preserve. In accordance with Section 51290, the notice shall include an explanation of the preliminary consideration of Section 51292, and give a general description, in text or by diagram, of the agricultural preserve land proposed for acquisition, and a copy of any applicable contract created under this chapter. The Director of Conservation shall forward to the Secretary of Food and Agriculture, a copy of any material received from the public agency or person relating to the proposed acquisition.

Within 30 days thereafter, the Director of Conservation and the local governing body shall forward to the appropriate public agency or person concerned their comments with respect to the effect of the location of the public improvement on the land within the agricultural preserve and those comments shall be considered by the public agency or person. In preparing those comments, the Director of Conservation shall consider issues related to agricultural land use, including, but not limited to, matters related to the effects of the proposal on the conversion of adjacent or nearby agricultural land to nonagricultural uses, and shall consult with, and incorporate the comments of, the Secretary of Food and Agriculture on any other matters related to agricultural operations. The failure by any person or public agency, other than a state agency, to comply with the requirements of this section shall be admissible in evidence in any litigation for the acquisition of that land or involving the allocation of funds or the construction of the public improvement. This subdivision does not apply to the erection, construction, alteration, or maintenance of gas, electric, piped subterranean water or wastewater, or communication utility facilities within an agricultural preserve if that preserve was established after the submission of the location of those facilities to the city or county for review or approval.

(c) When land in an agricultural preserve is acquired by a public entity, the public entity shall notify the Director of Conservation within 10 working days. The notice shall include a general explanation of the decision and the findings made pursuant to Section 51292. If different from that previously provided pursuant to subdivision (b), the notice shall also include a general description, in text or by diagram, of the agricultural preserve land acquired and a copy of any applicable contract created under this chapter.

(d) If, after giving the notice required under subdivisions (b) and (c) and before the project is completed within an agricultural preserve, the public agency or person proposes any significant change in the public improvement, it shall give notice of the changes to the Director of Conservation and the local governing body responsible for the administration of the preserve. Within 30 days thereafter, the Director of Conservation and the local governing body may forward to the public agency or person their comments with respect to the effect of the change to the public improvement on the land within the preserve and the compliance of the changed public improvements with this article. Those comments shall be considered by the public agency or person, if available within the time limits set by this subdivision.

(e) Any action or proceeding regarding notices or findings required by this article filed by the Director of Conservation or the local governing body administering the agricultural preserve shall be governed by Section 51294.

(Amended by Stats. 1999, Ch. 1018, Sec. 10. Effective January 1, 2000.)

§ 51291.5. The notice requirements of subdivision (b) of Section 51291 shall not apply to the acquisition of land for the erection, construction, or alteration of gas, electric, piped subterranean water or wastewater, or communication facilities.

(Added by Stats. 1999, Ch. 1018, Sec. 11. Effective January 1, 2000.)

§ 51292. No public agency or person shall locate a public improvement within an agricultural preserve unless the following findings are made:

(a) The location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve.

(b) If the land is agricultural land covered under a contract pursuant to this chapter for any public improvement, that there is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvement.

(Amended by Stats. 1999, Ch. 1018, Sec. 12. Effective January 1, 2000.)

§ 51293. Section 51292 shall not apply to:

(a) The location or construction of improvements where the board or council administering the agricultural preserve approves or agrees to the location thereof, except when the acquiring agency and administering agency are the same entity.

(b) The acquisition of easements within a preserve by the board or council administering the preserve.

(c) The location or construction of any public utility improvement which has been approved by the Public Utilities Commission.

(d) The acquisition of either (1) temporary construction easements for public utility improvements, or (2) an interest in real property for underground public utility improvements. This subdivision shall apply only where the surface of the land subject to the acquisition is returned to the condition and use that immediately predated the construction of the public improvement, and when the construction of the public utility improvement will not significantly impair agricultural use of the affected contracted parcel or parcels.

(e) The location or construction of the following types of improvements, which are hereby determined to be compatible with or to enhance land within an agricultural preserve:

(1) Flood control works, including channel rectification and alteration.

(2) Public works required for fish and wildlife enhancement and preservation.

(3) Improvements for the primary benefit of the lands within the preserve.

(f) Improvements for which the site or route has been specified by the Legislature in a manner that makes it impossible to avoid the acquisition of land under contract.

(g) All state highways on routes as described in Sections 301 to 622, inclusive, of the Streets and Highways Code, as those sections read on October 1, 1965.

(h) All facilities which are part of the State Water Facilities as described in subdivision (d) of Section 12934 of the Water Code, except facilities under paragraph (6) of subdivision (d) of that section.

(i) Land upon which condemnation proceedings have been commenced prior to October 1, 1965.

(j) The acquisition of a fee interest or conservation easement for a term of at least 10 years, in order to restrict the land to agricultural or open space uses as defined by subdivisions (b) and (o) of Section 51201.

(Amended by Stats. 1994, Ch. 1158, Sec. 4. Effective January 1, 1995.)

§ 51293.1. Any public agency or person requiring land in an agricultural preserve for a use which has been determined by a city or county to be a "compatible use" pursuant to subdivision (e) of Section 51201 in that agricultural preserve shall not be excused from the provisions of subdivision (b) of Section 51291 if the agricultural preserve was established before the location of the improvement of a public utility was submitted to the city, county, or Public Utilities Commission for agreement or approval and that compatible use shall not come within the provisions of Section 51293 unless the location of the improvement is approved

or agreed to pursuant to subdivision (a) of Section 51293 or the compatible use is listed in Section 51293.
(Amended by Stats. 1983, Ch. 101, Sec. 71.)

§ 51294. Section 51292 shall be enforceable only by mandamus proceedings by the local governing body administering the agricultural preserve or the Director of Conservation. However, as applied to condemnors whose determination of necessity is not conclusive by statute, evidence as to the compliance of the condemnor with Section 51292 shall be admissible on motion of any of the parties in any action otherwise authorized to be brought by the landowner or in any action against the landowner.
(Amended by Stats. 1984, Ch. 851, Sec. 5.)

§ 51294.1. After 30 days have elapsed following its action, pursuant to subdivision (b) of Section 51291, advising the Director of Conservation and the local governing body of a county or city administering an agricultural preserve of its intention to consider the location of a public improvement within such agricultural preserve, a public agency proposing to acquire land within an agricultural preserve for water transmission facilities which will extend into more than one county, may file the proposed route of the facilities with each county or city administering an agricultural preserve into which the facilities will extend and request each county or city to approve or agree to the location of the facilities or the acquisition of the land therefor. Upon approval or agreement, the provisions of Section 51292 shall not apply to the location of the proposed water transmission facility or the acquisition of land therefor in any county or city which has approved or agreed to the location or acquisition.
(Amended by Stats. 1984, Ch. 851, Sec. 6.)

§ 51294.2. If any local governing body administering an agricultural preserve within 90 days after receiving a request pursuant to Section 51294.1 has not approved or agreed to the location of water transmission facilities as provided in Section 51294.1 or in subdivision (a) of Section 51293, the public agency making such request may file an action against such local governing body in the superior court of one of the counties within which any such body has failed to approve the location of facilities or the acquisition of land therefor, to determine whether the public agency proposing the location or acquisition has complied with the requirements of Section 51292. If the court should so determine, the provisions of Section 51292 shall not apply to the location of water transmission facilities, nor the acquisition of land therefor, in any of the counties into which they shall extend, and no writ of mandamus shall be issued in relation thereto pursuant to Section 51294. For the purposes of this section, the county selected for commencing such action is the proper county for the trial of such proceedings. In determining whether the public agency has complied with the requirements of Section 51292, the court shall consider the alignment, functioning and operation of the entire transmission facility.

Courts shall give any action brought under the provisions of this section preference over all other civil actions therein, to the end that such actions shall be quickly heard and determined.
(Added by Stats. 1970, Ch. 415.)

§ 51295. When any action in eminent domain for the condemnation of the fee title of an entire parcel of land subject to a contract is filed, or when that land is acquired in lieu of eminent domain for a public improvement by a public agency or person, or whenever there is any such action or acquisition by the federal government or any person, instrumentality, or agency acting under the authority or power of the federal government, the contract shall be deemed null and void as to the land actually being condemned, or

so acquired as of the date the action is filed, and for the purposes of establishing the value of the land, the contract shall be deemed never to have existed.

Upon the termination of the proceeding, the contract shall be null and void for all land actually taken or acquired.

When an action to condemn or acquire less than all of a parcel of land subject to a contract is commenced, the contract shall be deemed null and void as to the land actually condemned or acquired and shall be disregarded in the valuation process only as to the land actually being taken, unless the remaining land subject to contract will be adversely affected by the condemnation, in which case the value of that damage shall be computed without regard to the contract.

When an action to condemn or acquire an interest that is less than the fee title of an entire parcel or any portion thereof of land subject to a contract is commenced, the contract shall be deemed null and void as to that interest and, for the purpose of establishing the value of only that interest, shall be deemed never to have existed, unless the remaining interests in any of the land subject to the contract will be adversely affected, in which case the value of that damage shall be computed without regard to the contract.

The land actually taken shall be removed from the contract. Under no circumstances shall land be removed that is not actually taken for a public improvement, except that when only a portion of the land or less than a fee interest in the land is taken or acquired, the contract may be canceled with respect to the remaining portion or interest upon petition of either party and pursuant to the provisions of Article 5 (commencing with Section 51280).

For the purposes of this section, a finding by the board or council that no authorized use may be made of the land if the contract is continued on the remaining portion or interest in the land, may satisfy the requirements of subdivision (a) of Section 51282.

If, after acquisition, the acquiring public agency determines that it will not for any reason actually locate on that land or any part thereof, the public improvement for which the land was acquired, before returning the land to private ownership, the public agency shall give written notice to the Director of Conservation and the local governing body responsible for the administration of the preserve, and the land shall be reenrolled in a new contract or encumbered by an enforceable deed restriction with terms at least as restrictive as those provided by this chapter. The duration of the restriction shall be determined by subtracting the length of time the land was held by the acquiring public agency or person from the number of years that remained on the original contract at the time of acquisition.
(Amended by Stats. 1998, Ch. 690, Sec. 8. Effective January 1, 1999.)

Article 7. **Farmland Security Zones**

[51296-51297.4] (Article 7 repealed and added by Stats. 2000, Ch. 506, Sec. 23.)

§ 51296. The Legislature finds and declares that it is desirable to expand options available to landowners for the preservation of agricultural land. It is therefore the intent of the Legislature in enacting this article to encourage the creation of longer term voluntary enforceable restrictions within agricultural preserves.
(Repealed and added by Stats. 2000, Ch. 506, Sec. 23. Effective January 1, 2001.)

§ 51296.1. A landowner or group of landowners may petition the board to rescind a contract or contracts entered into pursuant to this chapter in order to simultaneously place the land subject to that contract or those contracts under a new contract designating the property as a farmland security zone. A landowner or group of landowners may also petition the board to create a farmland security zone for the purpose of entering into farmland security zone contracts pursuant to this section.

(a) Before approving the rescission of a contract or contracts entered into pursuant to this chapter in order to simultaneously place the land under a new farmland security zone contract, the board shall create a farmland security zone, pursuant to the requirements of Section 51230, within an existing agricultural preserve.

(b) No land shall be included in a farmland security zone unless expressly requested by the landowner. Any land located within a city's sphere of influence shall not be included within a farmland security zone, unless the creation of the farmland security zone within the sphere of influence has been expressly approved by resolution by the city with jurisdiction within the sphere of influence.

(c) If more than one landowner requests the creation of a farmland security zone and the parcels are contiguous, the county shall place those parcels in the same farmland security zone.

(d) A contract entered into pursuant to this section shall be for an initial term of no less than 20 years. Each contract shall provide that on the anniversary date of the contract or on another annual date as specified by the contract, a year shall be added automatically to the initial term unless a notice of nonrenewal is given pursuant to Section 51245.

(e) Upon termination of a farmland security zone contract, the farmland security zone designation for that parcel shall simultaneously be terminated.

(Added by Stats. 2000, Ch. 506, Sec. 23. Effective January 1, 2001.)

§ 51296.2. Both of the following shall apply to land within a designated farmland security zone:

(a) The land shall be eligible for property tax valuation pursuant to Section 423.4 of the Revenue and Taxation Code.

(b) Notwithstanding any other provision of law, any special tax approved by the voters for urban-related services on or after January 1, 1999, on the land or any living improvement shall be levied at a reduced rate unless the tax directly benefits the land or the living improvements.

(Added by Stats. 2000, Ch. 506, Sec. 23. Effective January 1, 2001.)

§ 51296.3. Notwithstanding any provision of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000)), a local agency formation commission shall not approve a change of organization or reorganization that would result in the annexation of land within a designated farmland security zone to a city. However, this subdivision shall not apply under any of the following circumstances:

(a) If the farmland security zone is located within a designated, delineated area that has been approved by the voters as a limit for existing and future urban facilities, utilities, and services.

(b) If annexation of a parcel or a portion of a parcel is necessary for the location of a public improvement, as defined in Section 51290.5, except as provided in Section 51296.5 or 51296.6.

(c) If the landowner consents to the annexation.

(Amended by Stats. 2002, Ch. 614, Sec. 1. Effective January 1, 2003.)

§ 51296.4. Notwithstanding any provision of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000)), a local agency formation commission shall not approve a change of organization or reorganization that would result in the annexation of land within

a designated farmland security zone to a special district that provides or would provide sewers, nonagricultural water, or streets and roads, unless the facilities or services provided by the special district benefit land uses that are allowed under the contract and the landowner consents to the change of organization or reorganization.
(Amended by Stats. 2002, Ch. 614, Sec. 2. Effective January 1, 2003.)

§ 51296.5. Notwithstanding Article 5 (commencing with Section 53090) of Chapter 1 of Division 2 of Title 5, a school district shall not render inapplicable a county zoning ordinance to the use of land by the school district if the land is within a designated farmland security zone.
(Added by Stats. 2000, Ch. 506, Sec. 23. Effective January 1, 2001.)

§ 51296.6. Notwithstanding any other provision of law, a school district shall not acquire any land that is within a designated farmland security zone.
(Added by Stats. 2000, Ch. 506, Sec. 23. Effective January 1, 2001.)

§ 51296.7. The board shall not approve any use of land within a designated farmland security zone based on the compatible use provisions contained in subdivision (c) of Section 51238.1.
(Added by Stats. 2000, Ch. 506, Sec. 23. Effective January 1, 2001.)

§ 51296.8. Sections 51296 to 51297.4, inclusive, shall only apply to land that is designated on the Important Farmland Series maps, prepared pursuant to Section 65570 as predominantly one or more of the following:

(a) Prime farmland.
(b) Farmland of statewide significance.
(c) Unique farmland.
(d) Farmland of local importance.

If the proposed farmland security zone is in an area that is not designated on the Important Farmland Series maps, the land shall qualify if it is predominantly prime agricultural land, as defined in subdivision (c) of Section 51201.
(Added by Stats. 2000, Ch. 506, Sec. 23. Effective January 1, 2001.)

§ 51296.9. Nonrenewal of a farmland security zone contract shall be pursuant to Article 3 (commencing with Section 51240), except as otherwise provided in this article.
(Added by Stats. 2000, Ch. 506, Sec. 23. Effective January 1, 2001.)

§ 51297. A petition for cancellation of a farmland security zone contract created under this article may be filed only by the landowner with the city or county within which the contracted land is located. The city or county may grant a petition only in accordance with the procedures provided for in Article 5 (commencing with Section 51280) and only if all the following requirements are met:

(a) The city or county shall make both of the findings specified in paragraphs (1) and (2) of subdivision (a) of Section 51282, based on substantial evidence in the record. Subdivisions (b) to (e), inclusive, of Section 51282 shall apply to the findings made by the city or county.

(b) Prior to issuing tentative approval of the cancellation of the contract, the board or council shall determine and certify to the county auditor the amount of the cancellation fee that the landowner will be required to pay the county treasurer upon cancellation of the contract. The cancellation fee shall be in an amount that equals 25 percent of the cancellation valuation of the property.

(c) In its resolution tentatively approving cancellation of the contract, the city or county shall find all of the following:

(1) That no beneficial public purpose would be served by the continuation of the contract.

(2) That the uneconomic nature of the agricultural use is primarily attributable to circumstances beyond the control of the landowner and the local government.

(3) That the landowner has paid a cancellation fee equal to 25 percent of the cancellation valuation calculated in accordance with subdivision (b).

(d) The Director of Conservation approves the cancellation. The director may approve the cancellation after reviewing the record of the tentative cancellation provided by the city or county, only if he or she finds both of the following:

(1) That there is substantial evidence in the record supporting the decision.

(2) That no beneficial public purpose would be served by the continuation of the contract.

(e) A finding that no authorized use may be made of a remnant contract parcel of five acres or less left by public acquisition pursuant to Section 51295, may be substituted for the finding in subdivision (a).
(Amended by Stats. 2008, Ch. 503, Sec. 8. Effective January 1, 2009.)

§ 51297.1. All of the provisions of Article 6 (commencing with Section 51290) shall apply to farmland security zones created pursuant to this article except as specifically provided in this article.
(Added by Stats. 2000, Ch. 506, Sec. 23. Effective January 1, 2001.)

§ 51297.2. No state agency, as defined in Section 65934, or local agency, as defined in Section 65930, shall require any land to be placed under a farmland security zone contract as a condition of the issuance of any entitlement to use or the approval of a legislative or adjudicative act involving, but not limited to, the planning, use, or development of real property, or a change of organization or reorganization, as defined in Section 56021 or 56073. No contract shall be executed as a condition of an entitlement to use issued by an agency of the United States government.
(Added by Stats. 2000, Ch. 506, Sec. 23. Effective January 1, 2001.)

§ 51297.3. Sections 51296.3 and 51296.4 shall not apply during the three-year period preceding the termination of a farmland security zone contract.
(Added by Stats. 2000, Ch. 506, Sec. 23. Effective January 1, 2001.)

§ 51297.4. Nothing in Sections 51296 to 51297.4, inclusive, shall be construed to limit the authority of a board to rescind a portion or portions of a Williamson Act contract or contracts for the purpose of immediately enrolling the land in a farmland security zone contract so long as the remaining land is retained in a Williamson Act contract and the board determines that its action would improve the conservation of agricultural land within the county where the rescission occurs. The creation of multiple contracts under this section does not constitute a subdivision of the land.
(Added by Stats. 2000, Ch. 506, Sec. 23. Effective January 1, 2001.)

TITLE 7. PLANNING AND LAND USE

[65000-66499.58] (Heading of Title 7 amended by Stats. 1974, Ch. 1536.)

DIVISION 1. Planning and Zoning

[65000-66103] (Heading of Division 1 added by Stats. 1974, Ch. 1536.)

CHAPTER 3. Local Planning

[65100-65763] (Chapter 3 repealed and added by Stats. 1965, Ch. 1880.)

Article 5. Authority for and Scope of General Plans

[65300-65303.4] (Article 5 added by Stats. 1965, Ch. 1880.)

§ 65300. Each planning agency shall prepare and the legislative body of each county and city shall adopt a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries which in the planning agency's judgment bears relation to its planning. Chartered cities shall adopt general plans which contain the mandatory elements specified in Section 65302.
(Amended by Stats. 1984, Ch. 1009, Sec. 3.)

§ 65300.2. (a) For the purposes of this article, a "200-year flood plain" is an area that has a 1 in 200 chance of flooding in any given year, based on hydrological modeling and other engineering criteria accepted by the Department of Water Resources.

(b) For the purposes of this article, a "levee protection zone" is an area that is protected, as determined by the Central Valley Flood Protection Board or the Department of Water Resources, by a levee that is part of the facilities of the State Plan of Flood Control, as defined under Section 5096.805 of the Public Resources Code.
(Added by Stats. 2007, Ch. 369, Sec. 1. Effective January 1, 2008.)

§ 65300.5. In construing the provisions of this article, the Legislature intends that the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency.
(Added by Stats. 1975, Ch. 1104.)

§ 65300.7. The Legislature finds that the diversity of the state's communities and their residents requires planning agencies and legislative bodies to implement this article in ways that accommodate local conditions and circumstances, while meeting its minimum requirements.
(Added by Stats. 1980, Ch. 837.)

§ 65300.9. The Legislature recognizes that the capacity of California cities and counties to respond to state planning laws varies due to the legal differences between cities and counties, both charter and general law, and to differences among them in physical size and characteristics, population size and density, fiscal and administrative capabilities, land use and development issues, and human needs. It is the intent of the Legislature in enacting this chapter to provide an opportunity for each city and county to coordinate its local budget planning and local planning for federal and state program activities, such as community development, with the local land use planning process, recognizing that each city and county is required to establish

its own appropriate balance in the context of the local situation when allocating resources to meet these purposes.
(Added by Stats. 1984, Ch. 1009, Sec. 3.5.)

§ 65301. (a) The general plan shall be so prepared that all or individual elements of it may be adopted by the legislative body, and so that it may be adopted by the legislative body for all or part of the territory of the county or city and any other territory outside its boundaries that in its judgment bears relation to its planning. The general plan may be adopted in any format deemed appropriate or convenient by the legislative body, including the combining of elements. The legislative body may adopt all or part of a plan of another public agency in satisfaction of all or part of the requirements of Section 65302 if the plan of the other public agency is sufficiently detailed and its contents are appropriate, as determined by the legislative body, for the adopting city or county.

(b) The general plan may be adopted as a single document or as a group of documents relating to subjects or geographic segments of the planning area.

(c) The general plan shall address each of the elements specified in Section 65302 to the extent that the subject of the element exists in the planning area. The degree of specificity and level of detail of the discussion of each element shall reflect local conditions and circumstances. However, this section shall not affect the requirements of subdivision (c) of Section 65302, nor be construed to expand or limit the authority of the Department of Housing and Community Development to review housing elements pursuant to Section 65585 of this code or Section 50459 of the Health and Safety Code.
The requirements of this section shall apply to charter cities.
(Amended by Stats. 2006, Ch. 890, Sec. 1. Effective January 1, 2007.)

§ 65301.5. The adoption of the general plan or any part or element thereof or the adoption of any amendment to such plan or any part or element thereof is a legislative act which shall be reviewable pursuant to Section 1085 of the Code of Civil Procedure.
(Added by Stats. 1980, Ch. 837.)

§ 65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The location and designation of the extent of the uses of the land for public and private uses shall consider the identification of land and natural resources pursuant to paragraph (3) of subdivision (d). The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify and annually review those areas covered by the plan that are subject to flooding identified by flood plain mapping prepared by the Federal Emergency Management Agency (FEMA) or the Department of Water Resources. The land use element shall also do both of the following:

(1) Designate in a land use category that provides for timber production those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5).

(2) Consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land, or other territory adjacent to military facilities, or underlying designated military aviation routes and airspace.

(A) In determining the impact of new growth on military readiness activities, information provided by military facilities shall be considered. Cities and counties shall address military impacts based on information from the military and other sources.

(B) The following definitions govern this paragraph:

(i) "Military readiness activities" mean all of the following:

(I) Training, support, and operations that prepare the men and women of the military for combat.

(II) Operation, maintenance, and security of any military installation.

(III) Testing of military equipment, vehicles, weapons, and sensors for proper operation or suitability for combat use.

(ii) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense as defined in paragraph (1) of subsection (e) of Section 2687 of Title 10 of the United States Code.

(b) (1) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

(2) (A) Commencing January 1, 2011, upon any substantive revision of the circulation element, the legislative body shall modify the circulation element to plan for a balanced, multimodal transportation network that meets the needs of all users of streets, roads, and highways for safe and convenient travel in a manner that is suitable to the rural, suburban, or urban context of the general plan.

(B) For purposes of this paragraph, "users of streets, roads, and highways" mean bicyclists, children, persons with disabilities, motorists, movers of commercial goods, pedestrians, users of public transportation, and seniors.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) (1) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies, including flood management, water conservation, or groundwater agencies that have developed, served, controlled, managed, or conserved water of any type for any purpose in the county or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information described in Section 65352.5, if that information has been submitted by the water agency to the city or county.

(2) The conservation element may also cover all of the following:

(A) The reclamation of land and waters.

(B) Prevention and control of the pollution of streams and other waters.

(C) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(D) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(E) Protection of watersheds.

(F) The location, quantity and quality of the rock, sand, and gravel resources.

(3) Upon the next revision of the housing element on or after January 1, 2009, the conservation element shall identify rivers, creeks, streams, flood corridors, riparian habitats, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) (1) A noise element that shall identify and appraise noise problems in the community. The noise element shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(A) Highways and freeways.

(B) Primary arterials and major local streets.

(C) Passenger and freight online railroad operations and ground rapid transit systems.

(D) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(E) Local industrial plants, including, but not limited to, railroad classification yards.

(F) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.

(2) Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (Ldn). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

(3) The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

(4) The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) (1) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence; liquefaction; and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wildland and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

(2) The safety element, upon the next revision of the housing element on or after January 1, 2009, shall also do the following:

(A) Identify information regarding flood hazards, including, but not limited to, the following:

(i) Flood hazard zones. As used in this subdivision, "flood hazard zone" means an area subject to flooding that is delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency (FEMA). The identification of a flood hazard zone does not imply that areas outside the flood hazard zones or uses permitted within flood hazard zones will be free from flooding or flood damage.

(ii) National Flood Insurance Program maps published by FEMA.

(iii) Information about flood hazards that is available from the United States Army Corps of Engineers.

(iv) Designated floodway maps that are available from the Central Valley Flood Protection Board.

(v) Dam failure inundation maps prepared pursuant to Section 8589.5 that are available from the Office of Emergency Services.

(vi) Awareness Floodplain Mapping Program maps and 200-year flood plain maps that are or may be available from, or accepted by, the Department of Water Resources.

(vii) Maps of levee protection zones.

(viii) Areas subject to inundation in the event of the failure of project or nonproject levees or floodwalls.

(ix) Historical data on flooding, including locally prepared maps of areas that are subject to flooding, areas that are vulnerable to flooding after wildfires, and sites that have been repeatedly damaged by flooding.

(x) Existing and planned development in flood hazard zones, including structures, roads, utilities, and essential public facilities.

(xi) Local, state, and federal agencies with responsibility for flood protection, including special districts and local offices of emergency services.

(B) Establish a set of comprehensive goals, policies, and objectives based on the information identified pursuant to subparagraph (A), for the protection of the community from the unreasonable risks of flooding, including, but not limited to:

(i) Avoiding or minimizing the risks of flooding to new development.

(ii) Evaluating whether new development should be located in flood hazard zones, and identifying construction methods or other methods to minimize damage if new development is located in flood hazard zones.

(iii) Maintaining the structural and operational integrity of essential public facilities during flooding.

(iv) Locating, when feasible, new essential public facilities outside of flood hazard zones, including hospitals and health care facilities, emergency shelters, fire stations, emergency command centers, and emergency communications facilities or identifying construction methods or other methods to minimize damage if these facilities are located in flood hazard zones.

(v) Establishing cooperative working relationships among public agencies with responsibility for flood protection.

(C) Establish a set of feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to subparagraph (B).

(3) Upon the next revision of the housing element on or after January 1, 2014, the safety element shall be reviewed and updated as necessary to address the risk of fire for land classified as state responsibility areas, as defined in Section 4102 of the Public Resources Code, and land classified as very high fire hazard severity zones, as defined in Section 51177. This review shall consider the advice included in the Office of Planning and Research's most recent publication of "Fire Hazard Planning, General Technical Advice Series" and shall also include all of the following:

(A) Information regarding fire hazards, including, but not limited to, all of the following:

(i) Fire hazard severity zone maps available from the Department of Forestry and Fire Protection.

(ii) Any historical data on wildfires available from local agencies or a reference to where the data can be found.

(iii) Information about wildfire hazard areas that may be available from the United States Geological Survey.

(iv) General location and distribution of existing and planned uses of land in very high fire hazard severity zones and in state responsibility areas, including structures, roads, utilities, and essential public facilities. The location and distribution of planned uses of land shall not require defensible space compliance measures required by state law or local ordinance to occur on publicly owned lands or open space designations of homeowner associations.

(v) Local, state, and federal agencies with responsibility for fire protection, including special districts and local offices of emergency services.

(B) A set of goals, policies, and objectives based on the information identified pursuant to subparagraph (A) for the protection of the community from the unreasonable risk of wildfire.

(C) A set of feasible implementation measures designed to carry out the goals, policies, and objectives based on the information identified pursuant to subparagraph (B) including, but not limited to, all of the following:

(i) Avoiding or minimizing the wildfire hazards associated with new uses of land.

(ii) Locating, when feasible, new essential public facilities outside of high fire risk areas, including, but not limited to, hospitals and health care facilities, emergency shelters, emergency command centers, and emergency communications facilities, or identifying construction methods or other methods to minimize damage if these facilities are located in a state responsibility area or very high fire hazard severity zone.

(iii) Designing adequate infrastructure if a new development is located in a state responsibility area or in a very high fire hazard severity zone, including safe access for emergency response vehicles, visible street signs, and water supplies for structural fire suppression.

(iv) Working cooperatively with public agencies with responsibility for fire protection.

(D) If a city or county has adopted a fire safety plan or document separate from the general plan, an attachment of, or reference to, a city or county's adopted fire safety plan or document that fulfills commensurate goals and objectives and contains information required pursuant to this paragraph.

(4) After the initial revision of the safety element pursuant to paragraphs (2) and (3), upon each revision of the housing element, the planning agency shall review and, if necessary, revise the safety element to identify new information that was not available during the previous revision of the safety element.

(5) Cities and counties that have flood plain management ordinances that have been approved by FEMA that substantially comply with this section, or have substantially equivalent provisions to this subdivision in their general plans, may use that information in the safety element to comply with this subdivision, and shall summarize and incorporate by reference into the safety element the other general plan provisions or the flood plain ordinance, specifically showing how each requirement of this subdivision has been met.

(6) Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the California Geological Survey of the Department of Conservation, the Central Valley Flood Protection Board, if the city or county is located within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code, and the Office of Emergency Services for the purpose of including information known by and available to the department, the agency, and the board required by this subdivision.

(7) To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision. *(Amended by Stats. 2014, Ch. 201, Sec. 8. Effective January 1, 2015.)*

§ 65302.1. (a) The Legislature finds and declares all of the following:

(1) The San Joaquin Valley has a serious air pollution problem that will take the cooperation of land use and transportation planning agencies, transit operators, the development community, the San Joaquin Valley Air Pollution Control District and the public to solve. The solution to the problem requires changes in the way we have traditionally built our communities and constructed the transportation systems. It involves a fundamental shift in priorities from emphasis on mobility for the occupants of private automobiles to a multimodal system that more efficiently uses scarce resources. It requires a change in attitude from the public to support development patterns and transportation systems different from the status quo.

(2) In 2003 the district published a document entitled, Air Quality Guidelines for General Plans. This report is a comprehensive guidance document and resource for cities and counties to use to include air quality in their general plans. It includes goals, policies, and programs that when adopted in a general plan will reduce vehicle trips and miles traveled and improve air quality.

(3) Air quality guidelines are recommended strategies that do, when it is feasible, all of the following:

(A) Determine and mitigate project level and cumulative air quality impacts under the California Environmental Quality Act (CEQA) (Division 13 (commencing with Section 21000) of the Public Resources Code).

(B) Integrate land use plans, transportation plans, and air quality plans.

(C) Plan land uses in ways that support a multimodal transportation system.

(D) Local action to support programs that reduce congestion and vehicle trips.

(E) Plan land uses to minimize exposure to toxic air pollutant emissions from industrial and other sources.

(F) Reduce particulate matter emissions from sources under local jurisdiction.

(G) Support district and public utility programs to reduce emissions from energy consumption and area sources.

(4) The benefits of including air quality concerns within local general plans include, but are not limited to, all of the following:

(A) Lower infrastructure costs.

(B) Lower public service costs.

(C) More efficient transit service.

(D) Lower costs for comprehensive planning.

(E) Streamlining of the permit process.

(F) Improved mobility for the elderly and children.

(b) The legislative body of each city and county within the jurisdictional boundaries of the district shall amend the appropriate elements of its general plan, which may include, but are not limited to, the required elements dealing with land use, circulation, housing, conservation, and open space, to include data and analysis, goals, policies, and objectives, and feasible implementation strategies to improve air quality.

(c) The adoption of air quality amendments to a general plan to comply with the requirements of subdivision (d) shall include all of the following:

(1) A report describing local air quality conditions including air quality monitoring data, emission inventories, lists of significant source categories, attainment status and designations, and applicable state and federal air quality plans and transportation plans.

(2) A summary of local, district, state, and federal policies, programs, and regulations that may improve air quality in the city or county.

(3) A comprehensive set of goals, policies, and objectives that may improve air quality consistent with the strategies listed in paragraph (3) of subdivision (a).

(4) A set of feasible implementation measures designed to carry out those goals, policies, and objectives.

(d) At least 45 days prior to the adoption of air quality amendments to a general plan pursuant to this section, each city and county shall send a copy of its draft document to the district. The district may review the draft amendments to determine whether they may improve air quality consistent with the strategies listed in paragraph (3) of subdivision (a). Within 30 days of receiving the draft amendments, the district shall send any comments and advice to the city or county. The legislative body of the city or county shall consider the district's comments and advice prior to the final adoption of air quality amendments to the general plan. If the district's comments and advice are not available by the time scheduled for the final adoption of air quality amendments to the general plan, the legislative body of the city or county may act without them. The district's comments shall be advisory to the city or county.

(e) The legislative body of each city and county within the jurisdictional boundaries of the district shall comply with this section no later than one year from the date specified in Section 65588 for the next revision of its housing element that occurs after January 1, 2004.

(f) As used in this section, "district" means the San Joaquin Valley Air Pollution Control District.
(Added by Stats. 2003, Ch. 472, Sec. 1. Effective January 1, 2004.)

§ 65302.2. Upon the adoption, or revision, of a city or county's general plan, on or after January 1, 1996, the city or county shall utilize as a source document any urban water management plan submitted to the city or county by a water agency.
(Added by Stats. 1995, Ch. 881, Sec. 2. Effective January 1, 1996.)

§ 65302.3. (a) The general plan, and any applicable specific plan prepared pursuant to Article 8 (commencing with Section 65450), shall be consistent with the plan adopted or amended pursuant to Section 21675 of the Public Utilities Code.

(b) The general plan, and any applicable specific plan, shall be amended, as necessary, within 180 days of any amendment to the plan required under Section 21675 of the Public Utilities Code.

(c) If the legislative body does not concur with any provision of the plan required under Section 21675 of the Public Utilities Code, it may satisfy the provisions of this section by adopting findings pursuant to Section 21676 of the Public Utilities Code.

(d) In each county where an airport land use commission does not exist, but where there is a military airport, the general plan, and any applicable specific plan prepared pursuant to Article 8 (commencing with Section 65450), shall be consistent with the safety and noise standards in the Air Installation Compatible Use Zone prepared for that military airport.
(Amended by Stats. 2002, Ch. 971, Sec. 4. Effective January 1, 2003.)

§ 65302.4. The text and diagrams in the land use element that address the location and extent of land uses, and the zoning ordinances that implement these provisions, may also express community intentions regarding urban form and design. These expressions may differentiate neighborhoods, districts, and corridors, provide for a mixture of land uses and housing types within each, and provide specific measures for regulating relationships between buildings, and between buildings and outdoor public areas, including streets.
(Added by Stats. 2004, Ch. 179, Sec. 1. Effective January 1, 2005.)

§ 65302.5. (a) At least 45 days prior to adoption or amendment of the safety element, each county and city shall submit to the California Geological Survey of the Department of Conservation one copy of a draft of the safety element or amendment and any technical studies used for developing the safety element. The

division may review drafts submitted to it to determine whether they incorporate known seismic and other geologic hazard information, and report its findings to the planning agency within 30 days of receipt of the draft of the safety element or amendment pursuant to this subdivision. The legislative body shall consider the division's findings prior to final adoption of the safety element or amendment unless the division's findings are not available within the above prescribed time limits or unless the division has indicated to the city or county that the division will not review the safety element. If the division's findings are not available within those prescribed time limits, the legislative body may take the division's findings into consideration at the time it considers future amendments to the safety element. Each county and city shall provide the division with a copy of its adopted safety element or amendments. The division may review adopted safety elements or amendments and report its findings. All findings made by the division shall be advisory to the planning agency and legislative body.

(b) (1) The draft element of or draft amendment to the safety element of a county or a city's general plan shall be submitted to the State Board of Forestry and Fire Protection and to every local agency that provides fire protection to territory in the city or county at least 90 days prior to either of the following:

(A) The adoption or amendment to the safety element of its general plan for each county that contains state responsibility areas.

(B) The adoption or amendment to the safety element of its general plan for each city or county that contains a very high fire hazard severity zone as defined pursuant to subdivision (i) of Section 51177.

(2) A county that contains state responsibility areas and a city or county that contains a very high fire hazard severity zone as defined pursuant to subdivision (i) of Section 51177 shall submit for review the safety element of its general plan to the State Board of Forestry and Fire Protection and every local agency that provides fire protection to territory in the city or county in accordance with the following dates, as specified, unless the local government submitted the element within five years prior to that date:

(A) Local governments within the regional jurisdiction of the San Diego Association of Governments: December 31, 2010.

(B) Local governments within the regional jurisdiction of the Southern California Association of Governments: December 31, 2011.

(C) Local governments within the regional jurisdiction of the Association of Bay Area Governments: December 31, 2012.

(D) Local governments within the regional jurisdiction of the Council of Fresno County Governments, the Kern County Council of Governments, and the Sacramento Area Council of Governments: June 30, 2013.

(E) Local governments within the regional jurisdiction of the Association of Monterey Bay Area Governments: December 31, 2014.

(F) All other local governments: December 31, 2015.

(3) The State Board of Forestry and Fire Protection shall, and a local agency may, review the draft or an existing safety element and recommend changes to the planning agency within 60 days of its receipt regarding both of the following:

(A) Uses of land and policies in state responsibility areas and very high fire hazard severity zones that will protect life, property, and natural resources from unreasonable risks associated with wild land fires.

(B) Methods and strategies for wild land fire risk reduction and prevention within state responsibility areas and very high fire hazard severity zones.

(4) Prior to the adoption of its draft element or draft amendment, the board of supervisors of the county or the city council of a city shall consider the recommendations, if any, made by the State Board of Forestry and Fire Protection and any local agency that provides fire protection to territory in the city or county. If the board of supervisors or city council determines not to accept all or some of the recommendations, if any, made by the State Board of Forestry and Fire Protection or local agency, the board of supervisors or city council shall communicate in writing to the State Board of Forestry and Fire Protection or the local agency, its reasons for not accepting the recommendations.

(5) If the State Board of Forestry and Fire Protection's or local agency's recommendations are not available within the time limits required by this section, the board of supervisors or city council may act without those recommendations. The board of supervisors or city council shall take the recommendations into consideration the next time it considers amendments to the safety element.
(Amended by Stats. 2013, Ch. 76, Sec. 101. Effective January 1, 2014.)

§ 65302.6. (a) A city, county, or a city and county may adopt with its safety element pursuant to subdivision (g) of Section 65302 a local hazard mitigation plan (HMP) specified in the federal Disaster Mitigation Act of 2000 (Public Law 106-390). The hazard mitigation plan shall include all of the following elements called for in the federal act requirements:

(1) An initial earthquake performance evaluation of public facilities that provide essential services, shelter, and critical governmental functions.

(2) An inventory of private facilities that are potentially hazardous, including, but not limited to, multiunit, soft story, concrete tilt-up, and concrete frame buildings.

(3) A plan to reduce the potential risk from private and governmental facilities in the event of a disaster.

(b) Local jurisdictions that have not adopted a local hazard mitigation plan shall be given preference by the Office of Emergency Services in recommending actions to be funded from the Pre-Disaster Mitigation Program, the Hazard Mitigation Grant Program, and the Flood Mitigation Assistance Program to assist the local jurisdiction in developing and adopting a local hazard mitigation plan, subject to available funding from the Federal Emergency Management Agency.
(Amended by Stats. 2013, Ch. 352, Sec. 312. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

§ 65302.7. (a) For the purposes of complying with Section 65302.5, each county or city located within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code, shall submit the draft element of, or draft amendment to, the safety element to the Central Valley Flood Protection Board and to every local agency that provides flood protection to territory in the city or county at least 90 days prior to the adoption of, or amendment to, the safety element of its general plan.

(b) The Central Valley Flood Protection Board and each local agency described in paragraph (1) shall review the draft or an existing safety element and report their respective written recommendations to the planning agency within 60 days of the receipt of the draft or existing safety element. The Central Valley Flood Protection Board and each local agency shall review the draft or existing safety element and may offer written recommendations for changes to the draft or existing safety element regarding both of the following:

(1) Uses of land and policies in areas subjected to flooding that will protect life, property, and natural resources from unreasonable risks associated with flooding.

(2) Methods and strategies for flood risk reduction and protection within areas subjected to flooding.

(c) Prior to the adoption of its draft element or draft amendments to the safety element, the board of supervisors of the county or the city council of a city shall consider the recommendations made by the Central Valley Flood Protection Board and any local agency that provides flood protection to territory in the city or county. If the board of supervisors or the city council determines not to accept all or some of the recommendations, if any, made by the Central Valley Flood Protection Board or the local agency, the board of supervisors or the city council shall make findings that state its reasons for not accepting a recommendation and shall communicate those findings in writing to the Central Valley Flood Protection Board or to the local agency.

(d) If the Central Valley Flood Protection Board's or the local agency's recommendations are not available within the time limits required by this section, the board of supervisors or the city council may act without those recommendations. The board of supervisors or city council shall consider the recommendations at the next time it considers amendments to its safety element.

(Added by Stats. 2007, Ch. 369, Sec. 2. Effective January 1, 2008.)

§ 65302.8. If a county or city, including a charter city, adopts or amends a mandatory general plan element which operates to limit the number of housing units which may be constructed on an annual basis, such adoption or amendment shall contain findings which justify reducing the housing opportunities of the region. The findings shall include all of the following:

(a) A description of the city's or county's appropriate share of the regional need for housing.

(b) A description of the specific housing programs and activities being undertaken by the local jurisdiction to fulfill the requirements of subdivision (c) of Section 65302.

(c) A description of how the public health, safety, and welfare would be promoted by such adoption or amendment.

(d) The fiscal and environmental resources available to the local jurisdiction.

(Added by Stats. 1980, Ch. 823.)

§ 65302.9. (a) Within 24 months of July 2, 2013, each city and county within the Sacramento-San Joaquin Valley shall amend its general plan to contain all of the following:

(1) (A) The data and analysis contained in the Central Valley Flood Protection Plan pursuant to Section 9612 of the Water Code, including, but not limited to, the locations of the facilities of the State Plan of Flood Control and the locations of the real property protected by those facilities.

(B) The locations of flood hazard zones, including, but not limited to, locations mapped by the Federal Emergency Management Agency Flood Insurance Rate Map or the Flood Hazard Boundary Map, locations that participate in the National Flood Insurance Program, locations of undetermined risk areas, and locations mapped by a local flood agency or flood district.

(2) Goals, policies, and objectives, based on the data and analysis identified pursuant to paragraph (1), for the protection of lives and property that will reduce the risk of flood damage.

(3) Feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to paragraph (2).

(b) An undetermined risk area shall be presumed to be at risk during flooding that has a 1-in-200 chance of occurring in any given year unless deemed otherwise by the State Plan of Flood Control, an official National Flood Insurance Program rate map issued by the Federal Emergency Management Agency, or a finding made by a city or county based on a determination of substantial evidence by a local flood agency.

(c) To assist each city or county in complying with this section, the Central Valley Flood Protection Board, the Department of Water Resources, and local flood agencies shall collaborate with cities or counties by providing them with information and other technical assistance.

(d) In implementing this section, each city and county, both general law and charter, within the Sacramento-San Joaquin Valley, shall comply with this article, including, but not limited to, Sections 65300.5, 65300.7, 65300.9, and 65301.

(e) Notwithstanding any other law, this section shall apply to all cities, including charter cities, and counties within the Sacramento-San Joaquin Valley. The Legislature finds and declares that flood protection in the Sacramento and San Joaquin Rivers drainage areas is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution.

(f) This section shall not be construed to limit or remove any liability of a city or county prior to the amendment of the general plan except as provided in Section 8307 of the Water Code.
(Amended by Stats. 2012, Ch. 553, Sec. 2. Effective January 1, 2013.)

§ 65302.10. (a) As used in this section, the following terms shall have the following meanings:

(1) "Community" means an inhabited area within a city or county that is comprised of no less than 10 dwellings adjacent or in close proximity to one another.

(2) "Disadvantaged unincorporated community" means a fringe, island, or legacy community in which the median household income is 80 percent or less than the statewide median household income.

(3) "Fringe community" means any inhabited and unincorporated territory that is within a city's sphere of influence.

(4) "Island community" means any inhabited and unincorporated territory that is surrounded or substantially surrounded by one or more cities or by one or more cities and a county boundary or the Pacific Ocean.

(5) "Legacy community" means a geographically isolated community that is inhabited and has existed for at least 50 years.

(b) On or before the due date for the next adoption of its housing element pursuant to Section 65588, each city or county shall review and update the land use element of its general plan, based on available data, including, but not limited to, the data and analysis developed pursuant to Section 56430, of unincorporated island, fringe, or legacy communities inside or near its boundaries. The updated land use element shall include all of the following:

(1) In the case of a city, an identification of each island or fringe community within the city's sphere of influence that is a disadvantaged unincorporated community. In the case of a county, an identification of each legacy community within the boundaries of the county that is a disadvantaged unincorporated community, but not including any area within the sphere of influence of any city. This identification shall include a description of the community and a map designating its location.

(2) For each identified community, an analysis of water, wastewater, stormwater drainage, and structural fire protection needs or deficiencies.

(3) An analysis, based on then existing available data, of benefit assessment districts or other financing alternatives that could make the extension of services to identified communities financially feasible.

(c) On or before the due date for each subsequent revision of its housing element pursuant to Section 65588, each city and county shall review, and if necessary amend, its general plan to update the analysis required by this section.
(Amended by Stats. 2012, Ch. 330, Sec. 14. Effective January 1, 2013.)

§ 65302.11. (a) Notwithstanding subdivision (b) of Section 65302.3, the general plan, and any applicable specific plan, for the City of Coronado shall be amended, as necessary, within 540 days of any amendment to the plan required under Section 21675 of the Public Utilities Code if the amendment is made prior to January 1, 2017.

(b) This section shall remain in effect only until January 1, 2019, or 540 days after an amendment to the plan required under Section 21675 of the Public Utilities Code, whichever is earlier, and as of that date is repealed.

(Added by Stats. 2013, Ch. 606, Sec. 1. Effective January 1, 2014. Repealed on or before January 1, 2019, as prescribed by its own provisions.)

§ 65303. The general plan may include any other elements or address any other subjects which, in the judgment of the legislative body, relate to the physical development of the county or city.

(Repealed and added by Stats. 1984, Ch. 1009, Sec. 9.)

§ 65303.4. The Department of Water Resources or the Central Valley Flood Protection Board, as appropriate, and the Department of Fish and Game may develop site design and planning policies to assist local agencies which request help in implementing the general plan guidelines for meeting flood control objectives and other land management needs.

(Amended by Stats. 2007, Ch. 369, Sec. 3. Effective January 1, 2008.)

Article 7. **Administration of General Plan**

[65400-65404] (Article 7 added by Stats. 1965, Ch. 1880.)

§ 65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of forms and definitions adopted by the Department of Housing and Community Development pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2). Prior to and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the dead-

lines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments. The report may include the number of units that have been substantially rehabilitated, converted from non-affordable to affordable by acquisition, and preserved consistent with the standards set forth in paragraph (2) of subdivision (c) of Section 65583.1. The report shall document how the units meet the standards set forth in that subdivision.

(C) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(b) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.
(Amended by Stats. 2009, Ch. 467, Sec. 1. Effective January 1, 2010.)

§ 65401. If a general plan or part thereof has been adopted, within such time as may be fixed by the legislative body, each county or city officer, department, board, or commission, and each governmental body, commission, or board, including the governing body of any special district or school district, whose jurisdiction lies wholly or partially within the county or city, whose functions include recommending, preparing plans for, or constructing, major public works, shall submit to the official agency, as designated by the respective county board of supervisors or city council, a list of the proposed public works recommended for planning, initiation or construction during the ensuing fiscal year. The official agency receiving the list of proposed public works shall list and classify all such recommendations and shall prepare a coordinated program of proposed public works for the ensuing fiscal year. Such coordinated program shall be submitted to the county or city planning agency for review and report to said official agency as to conformity with the adopted general plan or part thereof.
(Amended by Stats. 1970, Ch. 1590.)

§ 65402. (a) If a general plan or part thereof has been adopted, no real property shall be acquired by dedication or otherwise for street, square, park or other public purposes, and no real property shall be disposed of, no street shall be vacated or abandoned, and no public building or structure shall be constructed or authorized, if the adopted general plan or part thereof applies thereto, until the location, purpose and extent of such acquisition or disposition, such street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the planning agency as to conformity with said adopted general plan or part thereof. The planning agency shall render its report as to conformity with said adopted general plan or part thereof within forty (40) days after the matter was submitted to it, or such longer period of time as may be designated by the legislative body.

If the legislative body so provides, by ordinance or resolution, the provisions of this subdivision shall not apply to: (1) the disposition of the remainder of a larger parcel which was acquired and used in part for street purposes; (2) acquisitions, dispositions, or abandonments for street widening; or (3) alignment projects, provided such dispositions for street purposes, acquisitions, dispositions, or abandonments for street widening, or alignment projects are of a minor nature.

(b) A county shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another county or within the corporate limits of a city, if such city or other county has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, and a city shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another city or in unincorporated territory, if such other city or the county in which such unincorporated territory is situated has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. The provisions of this paragraph (b) shall not apply to acquisition or abandonment for street widening or alignment projects of a minor nature if the legislative body having the real property within its boundaries so provides by ordinance or resolution.

(c) A local agency shall not acquire real property for any of the purposes specified in paragraph (a) nor dispose of any real property, nor construct or authorize a public building or structure, in any county or city, if such county or city has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. If the planning agency disapproves the location, purpose or extent of such acquisition, disposition, or the public building or structure, the disapproval may be overruled by the local agency. Local agency as used in this paragraph (c) means an agency of the state for the local performance of governmental or proprietary functions within limited boundaries. Local agency does not include the state, or county, or a city.

(Amended by Stats. 1974, Ch. 700.)

§ 65403. (a) Each special district, each unified, elementary, and high school district, and each agency created by a joint powers agreement pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 that constructs or maintains public facilities essential to the growth and maintenance of an urban population may prepare a five-year capital improvement program. This section shall not preclude, limit, or govern any other method of capital improvement planning and shall not apply to any district or agency unless it specifically determines to implement this section. As used in this section, "public facilities" means any of the following:

(1) Public buildings, including schools and related facilities.

(2) Facilities for the storage, treatment, and distribution of nonagricultural water.

(3) Facilities for the collection, treatment, reclamation, and disposal of sewage.

(4) Facilities for the collection and disposal of storm waters and for flood control purposes.

(5) Facilities for the generation of electricity and the distribution of gas and electricity.

(6) Transportation and transit facilities, including, but not limited to, streets, roads, harbors, ports, airports, and related facilities.

(7) Parks and recreation facilities. However, this section shall not apply to a special district which constructs or maintains parks and recreation facilities if the annual operating budget of the district does not exceed one hundred thousand dollars ($100,000).

(b) The five-year capital improvement program shall indicate the location, size, time of availability, means of financing, including a schedule for the repayment of bonded indebtedness, and estimates of operation costs for all proposed and related capital improvements. The five-year capital improvement program shall also indicate a schedule for maintenance and rehabilitation and an estimate of useful life of all existing and proposed capital improvements.

(c) The capital improvement program shall be adopted by, and shall be annually reviewed and revised by, resolution of the governing body of the district or local agency. Annual revisions shall include an extension of the program for an additional year to update the five-year program. At least 60 days prior to its adoption or annual revision, as the case may be, the capital improvement program shall be referred to the planning agency of each affected city and county within which the district or agency operates, for review as to its consistency with the applicable general plan, any applicable specific plans, and all elements and parts of the plan. Failure of the planning agency to report its findings within 40 days after receipt of a capital improvement program or revision of the program shall be conclusively deemed to constitute a finding that the capital improvement program is consistent with the general plan.

A district or local agency shall not carry out its capital improvement program or any part of the program if the planning agency finds that the capital improvement program or a part of the capital improvement program is not consistent with the applicable general plan, any specific plans, and all elements and parts of the plan. A district or local agency may overrule the finding and carry out its capital improvement program.

(d) Before adopting its capital improvement program, or annual revisions of the program, the governing body of each special district, each unified, elementary, and high school district, and each agency created by a joint powers agreement shall hold at least one public hearing. Notice of the time and place of the hearing shall be given pursuant to Section 65090. In addition, mailed notice shall be given to any city or county which may be significantly affected by the capital improvement program.
(Amended by Stats. 1984, Ch. 1009, Sec. 15.)

§ 65404. (a) On or before January 1, 2005, the Governor shall develop processes to do all of the following:

(1) Resolve conflicting requirements of two or more state agencies for a local plan, permit, or development project.

(2) Resolve conflicts between state functional plans.

(3) Resolve conflicts between state infrastructure projects.

(4) Provide, to the extent permitted under federal law, for the availability of mediation between a branch of the United States Armed Forces, a local agency, and a project applicant, in circumstances where a conflict arises between a proposed land use within special use airspace beneath low-level flight paths, or within 1,000 feet of a military installation.

(b) The process may be requested by a local agency, project applicant, or one or more state agencies. The mediation process identified in paragraph (4) of subdivision (a) may also be requested by a branch of the United States Armed Forces.
(Amended by Stats. 2004, Ch. 906, Sec. 3. Effective January 1, 2005.)

Article 10.5. **Open-Space Lands**
[65560-65570] (Article 10.5 added by Stats. 1970, Ch. 1590.)

§ 65570. (a) The Director of Conservation may establish, after notice and hearing, rules and regulations, and require reports from local officials and may employ, borrow, or contract for such staff or other forms of assistance as are reasonably necessary to carry out this section, Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2, and Section 612 of the Public Resources Code. In carrying out his or her duties under those sections, it is the intention of the Legislature that the director shall consult with the Director of Food and Agriculture and the Director of Planning and Research.

(b) Commencing July 1, 1986, and continuing biennially thereafter, the Department of Conservation shall collect or acquire information on the amount of land converted to or from agricultural use using 1984 baseline information as updated pursuant to this section for every county for which Important Farmland Series maps exist. On or before June 30, 1988, and continuing biennially thereafter, the department shall report to the Legislature on the data collected pursuant to this section. In reporting, the department shall specify, by category of agricultural land, the amount of land converted to, or from, agricultural use, by county and on a statewide basis. The department shall also report on the nonagricultural uses to which these agricultural lands were converted or committed.

For the purposes of this section, the following definitions apply unless otherwise specified:

(1) "Important Farmland Series maps" means those maps compiled by the United States Soil Conservation Service and updated and modified by the Department of Conservation.

(2) "Interim Farmland maps" means those maps prepared by the Department of Conservation for areas that do not have the current soil survey information needed to compile Important Farmland Series maps. The Interim Farmland maps shall indicate areas of irrigated agriculture, dry-farmed agriculture, grazing lands, urban and built-up lands, and any areas committed to urban or other nonagricultural uses.

(3) "Category of agricultural land" means prime farmland, farmland of statewide importance, unique farmland, and farmland of local importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and grazing land. "Grazing land" means land on which the existing vegetation, whether grown naturally or through management, is suitable for grazing or browsing of livestock.

(4) "Amount of land converted to agricultural use" means those lands which were brought into agricultural use or reestablished in agricultural use and were not shown as agricultural land on Important Farmland Series maps maintained by the Department of Conservation in the most recent biennial report.

(5) "Amount of land converted from agricultural use" means those lands which were permanently converted or committed to urban or other nonagricultural uses and were shown as agricultural land on Important Farmland Series maps maintained by the Department of Conservation and in the most recent biennial report.

(c) Beginning August 1, 1986, and continuing biennially thereafter, the Department of Conservation shall update and send counties copies of current Important Farmland Series maps. Counties may review the maps and notify the department within 90 days of any changes in agricultural land pursuant to subdivision (b) that occurred during the previous fiscal year, and note and request correction of any discrepancies or errors in the classification of agricultural lands on the maps. The department shall make those corrections requested by counties. The department shall provide staff assistance, as available, to collect or acquire information on the amount of land converted to, or from, agricultural use for those counties for which Important Farmland Series maps exist.

(d) The Department of Conservation may also acquire any supplemental information which becomes available from new soil surveys and establish comparable baseline data for counties not included in the 1984 baseline, and shall report on the data pursuant to this section. The Department of Conservation may prepare Interim Farmland maps to supplement the Important Farmland Series maps.

(e) The Legislature finds that the purpose of the Important Farmland Series maps and the Interim Farmland maps is not to consider the economic viability of agricultural lands or their current designation in the general plan. The purpose of the maps is limited to the preparation of an inventory of agricultural lands, as defined in this chapter, as well as land already committed to future urban or other nonagricultural purposes.

(Amended by Stats. 1986, Ch. 1053, Sec. 1.)

DIVISION 2. Subdivisions

[66410-66499.38] (Division 2 added by Stats. 1974, Ch. 1536.)

CHAPTER 4. Requirements

[66473-66498] (Chapter 4 added by Stats. 1974, Ch. 1536.)

Article 1. General

[66473-66474.10] (Article 1 added by Stats. 1974, Ch. 1536.)

§ 66474.4. (a) The legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it finds that either the resulting parcels following a subdivision of that land would be too small to sustain their agricultural use or the subdivision will result in residential development not incidental to the commercial agricultural use of the land, and if the legislative body finds that the land is subject to any of the following:

(1) A contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5), including an easement entered into pursuant to Section 51256.

(2) An open-space easement entered into pursuant to the Open-Space Easement Act of 1974 (Chapter 6.6 (commencing with Section 51070) of Part 1 of Division 1 of Title 5).

(3) An agricultural conservation easement entered into pursuant to Chapter 4 (commencing with Section 10260) of Division 10.2 of the Public Resources Code.

(4) A conservation easement entered into pursuant to Chapter 4 (commencing with Section 815) of Part 2 of Division 2 of the Civil Code.

(b) (1) For purposes of this section, land shall be conclusively presumed to be in parcels too small to sustain their agricultural use if the land is (A) less than 10 acres in size in the case of prime agricultural land, or (B) less than 40 acres in size in the case of land that is not prime agricultural land.

(2) For purposes of this section, agricultural land shall be presumed to be in parcels large enough to sustain their agricultural use if the land is (A) at least 10 acres in size in the case of prime agricultural land, or (B) at least 40 acres in size in the case of land that is not prime agricultural land.

(c) A legislative body may approve a subdivision with parcels smaller than those specified in this section if the legislative body makes either of the following findings:

(1) The parcels can nevertheless sustain an agricultural use permitted under the contract or easement, or are subject to a written agreement for joint management pursuant to Section 51230.1 and the par-

cels that are jointly managed total at least 10 acres in size in the case of prime agricultural land or 40 acres in size in the case of land that is not prime agricultural land.

(2) One of the parcels contains a residence and is subject to Section 428 of the Revenue and Taxation Code; the residence has existed on the property for at least five years; the landowner has owned the parcels for at least 10 years; and the remaining parcels shown on the map are at least 10 acres in size if the land is prime agricultural land, or at least 40 acres in size if the land is not prime agricultural land.

(d) No other homesite parcels as described in paragraph (2) of subdivision (c) may be created on any remaining parcels under contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Division 1 of Title 5) for at least 10 years following the creation of a homesite parcel pursuant to this section.

(e) This section shall not apply to land that is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Division 1 of Title 5) when any of the following has occurred:

(1) A local agency formation commission has approved the annexation of the land to a city and the city will not succeed to the contract as provided in Sections 51243 and 51243.5.

(2) Written notice of nonrenewal of the contract has been served, as provided in Section 51245, and, as a result of that notice, there are no more than three years remaining in the term of the contract.

(3) The board or council has granted tentative approval for cancellation of the contract as provided in Section 51282.

(f) This section shall not apply during the three-year period preceding the termination of a contract described in paragraph (1) of subdivision (a).

(g) This section shall not be construed as limiting the power of legislative bodies to establish minimum parcel sizes larger than those specified in subdivision (a).

(h) This section does not limit the authority of a city or county to approve a tentative or parcel map with respect to land subject to an easement described in this section for which agriculture is the primary purpose if the resulting parcels can sustain uses consistent with the intent of the easement.

(i) This section does not limit the authority of a city or county to approve a tentative or parcel map with respect to land subject to an easement described in this section for which agriculture is not the primary purpose if the resulting parcels can sustain uses consistent with the purposes of the easement.

(j) Where an easement described in this section contains language addressing allowable land divisions, the terms of the easement shall prevail.

(k) The amendments to this section made in the 2002 portion of the 2001–02 Regular Session of the Legislature shall apply only with respect to contracts or easements entered into on or after January 1, 2003. *(Amended by Stats. 2003, Ch. 296, Sec. 19. Effective January 1, 2004.)*

Chapter 7. Enforcement and Judicial Review

[66499.30-66499.38] (Chapter 7 added by Stats. 1974, Ch. 1536.)

Article 2. Remedies

[66499.32-66499.36] (Article 2 added by Stats. 1974, Ch. 1536.)

§ 66499.35. (a) Any person owning real property or a vendee of that person pursuant to a contract of sale of the real property may request, and a local agency shall determine, whether the real property complies with the provisions of this division and of local ordinances enacted pursuant to this division. If a local agen-

cy determines that the real property complies, the city or the county shall cause a certificate of compliance to be filed for record with the recorder of the county in which the real property is located. The certificate of compliance shall identify the real property and shall state that the division of the real property complies with applicable provisions of this division and of local ordinances enacted pursuant to this division. The local agency may impose a reasonable fee to cover the cost of issuing and recording the certificate of compliance.

(b) If a local agency determines that the real property does not comply with the provisions of this division or of local ordinances enacted pursuant to this division, it shall issue a conditional certificate of compliance. A local agency may, as a condition to granting a conditional certificate of compliance, impose any conditions that would have been applicable to the division of the property at the time the applicant acquired his or her interest therein, and that had been established at that time by this division or local ordinance enacted pursuant to this division, except that where the applicant was the owner of record at the time of the initial violation of the provisions of this division or of the local ordinances who by a grant of the real property created a parcel or parcels in violation of this division or local ordinances enacted pursuant to this division, and the person is the current owner of record of one or more of the parcels which were created as a result of the grant in violation of this division or those local ordinances, then the local agency may impose any conditions that would be applicable to a current division of the property. Upon making the determination and establishing the conditions, the city or county shall cause a conditional certificate of compliance to be filed for record with the recorder of the county in which the real property is located. The certificate shall serve as notice to the property owner or vendee who has applied for the certificate pursuant to this section, a grantee of the property owner, or any subsequent transferee or assignee of the property that the fulfillment and implementation of these conditions shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property.
Compliance with these conditions shall not be required until the time that a permit or other grant of approval for development of the property is issued by the local agency.

(c) A certificate of compliance shall be issued for any real property that has been approved for development pursuant to Section 66499.34.

(d) A recorded final map, parcel map, official map, or an approved certificate of exception shall constitute a certificate of compliance with respect to the parcels of real property described therein.

(e) An official map prepared pursuant to subdivision (b) of Section 66499.52 shall constitute a certificate of compliance with respect to the parcels of real property described therein and may be filed for record, whether or not the parcels are contiguous, so long as the parcels are within the same section or, with the approval of the city engineer or county surveyor, within contiguous sections of land.

(f) (1) Each certificate of compliance or conditional certificate of compliance shall include information the local agency deems necessary, including, but not limited to, all of the following:

(A) Name or names of owners of the parcel.

(B) Assessor parcel number or numbers of the parcel.

(C) The number of parcels for which the certificate of compliance or conditional certificate of compliance is being issued and recorded.

(D) Legal description of the parcel or parcels for which the certificate of compliance or conditional certificate of compliance is being issued and recorded.

(E) A notice stating as follows:
This certificate relates only to issues of compliance or noncompliance with the Subdivision Map Act and local ordinances enacted pursuant thereto. The parcel described herein may be sold, leased, or financed without further compliance with the Subdivision Map Act or any local ordinance enacted pursuant thereto. Development of the parcel may require issuance of a permit or permits, or other grant or grants of approval.

(F) Any conditions to be fulfilled and implemented prior to subsequent issuance of a permit or other grant of approval for development of the property, as specified in the conditional certificate of compliance.

(2) Local agencies may process applications for certificates of compliance or conditional certificates of compliance concurrently and may record a single certificate of compliance or a single conditional certificate of compliance for multiple parcels. Where a single certificate of compliance or conditional certificate of compliance is certifying multiple parcels, each as to compliance with the provisions of this division and with local ordinances enacted pursuant thereto, the single certificate of compliance or conditional certificate of compliance shall clearly identify, and distinguish between, the descriptions of each parcel.
(Amended by Stats. 2002, Ch. 1109, Sec. 8. Effective January 1, 2003.)

Public Resources Code

DIVISION 1. Administration
[500-830] (Division 1 repealed and added by Stats. 1965, Ch. 1144.)

CHAPTER 2. Department of Conservation
[600-690] (Chapter 2 added by Stats. 1965, Ch. 1144.)

Article 1. **Organization and General Powers**
[600-615] (Article 1 added by Stats. 1965, Ch. 1144.)

§ 612. The department shall prepare, update, and maintain Important Farmland Series maps as defined in paragraph (1) of subdivision (b) of Section 65570 of the Government Code and other soils and land capability information, and prepare and maintain an automated map and data base system to record and report changes in the use of agricultural lands.
(Added by Stats. 1982, Ch. 13, Sec. 2.)

§ 612.5. (a) The Legislature hereby finds and declares all of the following:

(1) It is in the state's public interest to have an accurate inventory of the state's soil resources.

(2) In California, the United States Soil Conservation Service has been responsible for undertaking soil surveys and soils information for many of California's agricultural counties is outdated or unavailable.

(3) Information on soils is needed for agricultural management, water and soil conservation activities, engineering and land use planning, and state and local policy decisions. Completion of the California Farmland Mapping and Monitoring Program is contingent upon availability of accurate, modern soil surveys.

(4) State funding of soil surveys has been limited to soil vegetation surveys on wildlands and no state contributions have been made toward the completion of modern soil surveys in California on cropland. In recent years, every state with incomplete soil surveys on farmland, except California, has cost-shared with the United States Soil Conservation Service to complete those surveys.

(5) Federal funding for the soil survey program of the United States Soil Conservation Service has been declining in real dollars in the past several years and is projected to be further reduced under the requirements of the Gramm-Rudman-Hollings Deficit Reduction Act.

(6) Therefore, it is in California's interest to authorize the department to assist the United States Soil Conservation Service with the completion of soil surveys.

(b) The department shall provide financial assistance to the United States Soil Conservation Service to undertake or complete soil surveys in areas of this state where the surveys have not been completed, including, but not limited to, portions of the Counties of San Joaquin, Yuba, Colusa, Butte, Fresno, Kern, Tulare, Stanislaus, and Lassen. Financial assistance shall be applied to field work that includes onsite soils mapping, report writing, manuscript preparation, and final correlation of soils data.

(c) In allocating funds for completion of soil surveys in the United States Soil Conservation Service soil survey areas in California, the department shall consider criteria that include, but are not limited to, all of the following:

(1) Voids in important farmland maps.

(2) Rate and type of land use changes.

(3) Extent of erosion, alkalinity, and other soil resource problems.

(4) Farm-gate value of agricultural production.

(5) Specific soil-related problems.

(6) Status of ongoing soil surveys.

(7) Extent of cropland in each county.

(8) Availability of local funding or other support.

(Amended by Stats. 2004, Ch. 193, Sec. 159. Effective January 1, 2005.)

§ 613. The department, through the California Resources Information System and as budgetary resources permit, may provide informational assistance to local agencies in the development of geobased natural resource information systems. In addition, the department may assist local agencies in securing geobased natural resource information from state agencies.

Local agencies requesting assistance shall reimburse the department for identifiable costs incurred by the department pursuant to this section.

(Added by Stats. 1982, Ch. 221, Sec. 1.)

§ 614. (a) In order to implement the soil conservation plan which is adopted by the soil conservation committee, the department shall conduct a study and propose an implementation strategy to meet the intent of the plan. The study shall include, but not be limited to, all of the following:

(1) An assessment of the structural and policy changes needed in the department to carry out the soil conservation plan.

(2) A review of the provisions of Division 9 (commencing with Section 9000) for the purposes of providing a framework for soil conservation administration at the state and local levels.

(3) Recommendations on how the department can best deliver soil conservation services.

The department shall report the results of this study to the Legislature on or before December 1, 1988.

(b) The department shall conduct a study of resource conservation districts in California. The study shall include, but not be limited to, all of the following:

(1) A review of the provisions of Division 9 (commencing with Section 9000) to determine the changes in policy and structure necessary to enable resource conservation districts to better provide soil conservation assistance.

(2) Recommendations on the consolidation and reorganization of resource conservation districts.

The department shall report the result of this study to the Legislature on or before December 1, 1989.

(c) The department shall provide soil conservation advisory services to local governments, land owners, farmers and ranchers, resource conservation districts, and the general public. The services shall include, but not be limited to, all of the following:

(1) State level liaison with the resource conservation districts.

(2) Review of environmental impact reports as required under the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(3) Provision of information on the soil conservation components of the 1985 Food Security Act.

(4) Assistance to local governments on the development of soil conservation guidelines for general plans.

(5) Responding to inquiries from the general public.

From funds appropriated for purposes of this section, an amount, not to exceed fifty thousand dollars ($50,000), shall be utilized for the purposes of this subdivision.

(Added by Stats. 1987, Ch. 1308, Sec. 4.)

DIVISION 2. Geology, Mines and Mining

[2001-2815] (Heading of Division 2 amended by Stats. 1965, Ch. 1143.)

CHAPTER 9. Surface Mining and Reclamation Act of 1975

[2710-2796.5] (Chapter 9 added by Stats. 1975, Ch. 1131.)

Article 5. Reclamation Plans and the Conduct of Surface Mining Operations

[2770-2779] (Article 5 added by Stats. 1975, Ch. 1131.)

§ 2773. (a) The reclamation plan shall be applicable to a specific piece of property or properties, shall be based upon the character of the surrounding area and such characteristics of the property as type of overburden, soil stability, topography, geology, climate, stream characteristics, and principal mineral commodities, and shall establish site-specific criteria for evaluating compliance with the approved reclamation plan, including topography, revegetation and sediment, and erosion control.

(b) By January 1, 1992, the board shall adopt regulations specifying minimum, verifiable statewide reclamation standards. Subjects for which standards shall be set include, but shall not be limited to, the following:

(1) Wildlife habitat.

(2) Backfilling, regrading, slope stability, and recontouring.

(3) Revegetation.

(4) Drainage, diversion structures, waterways, and erosion control.

(5) Prime and other agricultural land reclamation.

(6) Building, structure, and equipment removal.

(7) Stream protection.

(8) Topsoil salvage, maintenance, and redistribution.

(9) Tailing and mine waste management.

These standards shall apply to each mining operation, but only to the extent that they are consistent with the planned or actual subsequent use or uses of the mining site.

(Amended by Stats. 1990, Ch. 1097, Sec. 11.)

DIVISION 10.2. Agricultural Land Stewardship Program of 1995

[10200-10277] (Division 10.2 added by Stats. 1995, Ch. 931, Sec. 1.)

CHAPTER 1. General Provisions

[10200-10277] (Chapter 1 added by Stats. 1995, Ch. 931, Sec. 1.)

Article 1. Title

[10200-10200] (Article 1 added by Stats. 1995, Ch. 931, Sec. 1.)

§ 10200. This division shall be known, and may be cited, as the California Farmland Conservancy Program Act. Any other references in this division to the Agricultural Land Stewardship Program Act of 1995 shall hereafter mean the California Farmland Conservancy Program Act.
(Amended by Stats. 1999, Ch. 503, Sec. 1. Effective January 1, 2000.)

Article 2. Findings and Declarations

[10201-10202] (Article 2 added by Stats. 1995, Ch. 931, Sec. 1.)

§ 10201. The Legislature hereby finds and declares all of the following:

(a) The agricultural lands of the state contribute substantially to the state, national, and world food supply and are a vital part of the state's economy.

(b) The growing population and expanding economy of the state have had a profound impact on the ability of the public and private sectors to conserve land for the production of food and fiber, especially agricultural land around urban areas.

(c) Agricultural lands near urban areas that are maintained in productive agricultural use are a significant part of California's agricultural heritage. These lands contribute to the economic betterment of local areas and the entire state and are an important source of food, fiber, and other agricultural products. Conserving these lands is necessary due to increasing development pressures and the effects of urbanization on farmlands close to cities.

(d) The long-term conservation of agricultural land is necessary to safeguard an adequate supply of agricultural land and to balance the increasing development pressures around urban areas.

(e) A program to encourage and make possible the long-term conservation of agricultural lands is a necessary part of the state's agricultural land protection policies and programs, and it is appropriate to expend money for that purpose. A program of this nature will only be effective when used in concert with local planning and zoning strategies to conserve agricultural land.

(f) Funding is necessary to better address the needs of conserving agricultural land near urban areas.
(Added by Stats. 1995, Ch. 931, Sec. 1. Effective January 1, 1996.)

§ 10202. It is the intent of the Legislature, in enacting this division, to do all of the following:

(a) Encourage voluntary, long-term private stewardship of agricultural lands by offering landowners financial incentives.

(b) Protect farming and ranching operations in agricultural areas from nonfarm or nonranch land uses that may hinder and curtail farming or ranching operations.

(c) Encourage long-term conservation of productive agricultural lands in order to protect the agricultural economy of rural communities, as well as that of the state, for future generations of Californians.

(d) Encourage local land use planning for orderly and efficient urban growth and conservation of agricultural land.

(e) Encourage local land use planning decisions that are consistent with the state's policies with regard to agricultural land conservation.

(f) Encourage improvements to enhance long-term sustainable agricultural uses.

(Added by Stats. 1995, Ch. 931, Sec. 1. Effective January 1, 1996.)

Article 3. **Definitions**

[10210-10224] (Article 3 added by Stats. 1995, Ch. 931, Sec. 1.)

§ 10210. Unless the context otherwise requires, the definitions in this article govern the construction of this division.

(Added by Stats. 1995, Ch. 931, Sec. 1. Effective January 1, 1996.)

§ 10211. "Agricultural conservation easement" or "easement" means an interest in land, less than fee simple, which represents the right to prevent the development or improvement of the land, as specified in Section 815.1 of the Civil Code, for any purpose other than agricultural production. The easement shall be granted for the California Farmland Conservancy Program by the owner of a fee simple interest in land to a local government, nonprofit organization, resource conservation district, or to a regional park or open-space district or regional park or open-space authority that has the conservation of farmland among its stated purposes, as prescribed by statute, or as expressed in the entity's locally adopted policies. It shall be granted in perpetuity as the equivalent of covenants running with the land.

(Amended by Stats. 2002, Ch. 616, Sec. 2. Effective January 1, 2003.)

§ 10212. "Applicant" means a city, county, nonprofit organization, resource conservation district, or a regional park or open-space district or regional park or open-space authority that has the conservation of farmland among its stated purposes, as prescribed by statute, or as expressed in the entity's locally adopted policies, that applies for a grant authorized pursuant to this division.

(Amended by Stats. 2002, Ch. 616, Sec. 3. Effective January 1, 2003.)

§ 10213. (a) "Agricultural land" means prime farmland, farmland of statewide importance, unique farmland, farmland of local importance, and commercial grazing land as defined in the Guidelines for the Farmland Mapping and Monitoring Program, pursuant to Section 65570 of the Government Code.

(b) In those areas of the state where lands have not been surveyed for classification pursuant to subdivision (a), land shall meet the requirements of "prime agricultural land" as set forth in subdivision (c) of Section 51201 of the Government Code.

(Added by Stats. 1995, Ch. 931, Sec. 1. Effective January 1, 1996.)

§ 10214. "Department" means the Department of Conservation.

(Added by Stats. 1995, Ch. 931, Sec. 1. Effective January 1, 1996.)

§ 10215. "Director" means the Director of Conservation.

(Added by Stats. 1995, Ch. 931, Sec. 1. Effective January 1, 1996.)

§ 10216. "Fund" means the California Farmland Conservancy Program Fund created pursuant to Section 10230.

(Amended by Stats. 1999, Ch. 503, Sec. 3. Effective January 1, 2000.)

§ 10218. "Husbandry practices" means agricultural activities, such as those specified in subdivision (e) of Section 3482.5 of the Civil Code, conducted or maintained for commercial purposes in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality.
(Amended by Stats. 1999, Ch. 83, Sec. 167. Effective January 1, 2000.)

§ 10219. "Local government" means a city or county.
(Added by Stats. 1995, Ch. 931, Sec. 1. Effective January 1, 1996.)

§ 10220. "Local government program" means the policies and implementation measures of a local government to conserve agricultural land.
(Added by Stats. 1995, Ch. 931, Sec. 1. Effective January 1, 1996.)

§ 10221. "Nonprofit organization" means any private nonprofit organization which has among its purposes the conservation of agricultural lands, and holds a tax exemption as defined under Section 501(c)(3) of the Internal Revenue Code, and further qualifies as an organization under Section 170(b)(1)(A)(vi) or 170(h)(3) of the Internal Revenue Code.
(Added by Stats. 1995, Ch. 931, Sec. 1. Effective January 1, 1996.)

§ 10222. "Program" means the California Farmland Conservancy Program established under this division.
(Amended by Stats. 1999, Ch. 503, Sec. 4. Effective January 1, 2000.)

§ 10223. "Secretary" means the Secretary of the Resources Agency.
(Added by Stats. 1995, Ch. 931, Sec. 1. Effective January 1, 1996.)

§ 10224. "Resource conservation district" means a resource conservation district established pursuant to Division 9 (commencing with Section 9000).
(Added by Stats. 1999, Ch. 503, Sec. 5. Effective January 1, 2000.)

Article 4. **Administration**

[10225-10227] (Article 4 added by Stats. 1995, Ch. 931, Sec. 1.)

§ 10225. The Legislature hereby finds and declares that, pursuant to Chapter 4 (commencing with Section 31150) of Division 21, the State Coastal Conservancy has responsibility for carrying out agricultural projects in the coastal zone, as defined in Section 30103. Nothing in this division shall be construed to alter the conservancy's responsibility for the administration of state or federal funds that are allocated for the purpose of preserving coastal agricultural lands. For projects in the coastal zone, the department shall consult with the State Coastal Conservancy in developing its policies, priorities, and procedures for the allocation of those state and federal moneys.
(Added by Stats. 1995, Ch. 931, Sec. 1. Effective January 1, 1996.)

§ 10226. Nothing in this division shall be construed to overrule, rescind, or amend any of the requirements prescribed in Chapter 7 (commencing with Section 51200) of Division 1 of Title 5 of the Government Code.
(Added by Stats. 1995, Ch. 931, Sec. 1. Effective January 1, 1996.)

§ 10227. No local government shall, in any way, limit development on any land solely because of the land's proximity to property that is protected by an agricultural conservation easement that is subject to this division.
(Added by Stats. 1995, Ch. 931, Sec. 1. Effective January 1, 1996.)

CHAPTER 2. Agricultural Land Stewardship Program

[10230-10246] (Chapter 2 added by Stats. 1995, Ch. 931, Sec. 1.)

§ 10230. (a) (1) The California Farmland Conservancy Program Fund is hereby created.
Except as provided in paragraph (2), the moneys in the fund shall, upon appropriation by the Legislature in the annual Budget Act, be used for the purposes of the program, which include the purchase of agricultural conservation easements, fee title acquisition grants, land improvement and planning grants, technical assistance provided by the department, technology transfer activities of the department, and administrative costs incurred by the department in administering the program.

(2) Notwithstanding paragraph (1), moneys may be deposited into the fund from federal grants, and gifts and donations that are designated and required by the donor to be used exclusively for the purposes of the program, and notwithstanding Section 13340 of the Government Code, those moneys are hereby continuously appropriated to the department for expenditure for the purposes of this program.

(b) Not to exceed 10 percent of all grants made by the department pursuant to this division may be made for land improvement purposes and policy planning purposes. Not less than 90 percent of funds available for grants pursuant to this division shall be expended for the acquisition of interests in land.
(Amended by Stats. 2002, Ch. 616, Sec. 4. Effective January 1, 2003.)

§ 10230.5. Policy planning grants may be awarded pursuant to criteria established by the department for purposes including, but not limited to, the development and evaluation of local or regional land conservation strategies and potential agricultural conservation easement or fee title acquisition projects.
(Added by Stats. 2002, Ch. 616, Sec. 5. Effective January 1, 2003.)

§ 10231. Money available from the fund shall be utilized in accordance with the expenditures and distribution authorized, required, or otherwise provided in the program for grants for the acquisition of agricultural conservation easements or fee title. This includes direct costs incidental to the acquisition, as determined by the department, including costs associated with a loss in property tax revenues resulting from the acquisition of those agricultural conservation easements. Direct costs paid to the applicant shall have been incurred after the complete application was submitted to the department and no more than 180 days before the execution of the grant agreement or during the grant term, and shall not exceed 10 percent of the value of the easements for which the costs were incurred.
(Amended by Stats. 2007, Ch. 254, Sec. 5. Effective September 26, 2007.)

§ 10231.5. The department may accept donations of funds if the department is the designated beneficiary of the donation and it agrees to use the funds for purposes of the program in a county specified by the donor. Any donation made to the department pursuant to this section is subject to the requirements of Sections 11005 and 16302 of the Government Code.
(Added by Stats. 1999, Ch. 503, Sec. 8. Effective January 1, 2000.)

§ 10232. The director shall not approve a grant if the local government requesting a grant has acquired, or proposes to acquire, the agricultural conservation easement through the use of eminent domain, unless requested by the owner of the land.
(Added by Stats. 1995, Ch. 931, Sec. 1. Effective January 1, 1996.)

§ 10233. Each application for a grant pursuant to this division shall contain a matching funding component, as specified in this section, and may be provided in the form of cash or in-kind services, or any combination thereof, as determined by the department.

(a) Each application for a grant for the purchase of an agricultural conservation easement shall contain a matching component of not less than 5 percent of the value of the grant or a landowner donation of not less than 10 percent of the appraised fair market value of the agricultural conservation easement. In situations where both matching funds and donations of easement value are being combined, the combined match shall be not less than 10 percent of the appraised fair market value of the agricultural conservation easement. Up to 50 percent of contributions to an agricultural conservation easement monitoring endowment for the subject property may be provided as a component of a qualified grant match under this division, as determined by the department.

(b) Each application for a planning or land improvement grant pursuant to Section 10230 shall contain a matching funding component of not less than 10 percent of the proposal's total cost.

(c) Each application for a fee title acquisition grant shall contain a matching component of not less than 5 percent of the value of the grant.
(Amended by Stats. 2002, Ch. 616, Sec. 7. Effective January 1, 2003.)

§ 10234. Every applicant for a grant for the acquisition of fee title or an agricultural conservation easement shall provide by a resolution from the governing body of the local government in which the proposed project is located, and shall certify both of the following:

(a) The proposal meets the eligibility criteria set forth in Section 10251.

(b) The proposal has been approved by the appropriate local governmental governing body.
(Amended by Stats. 2002, Ch. 616, Sec. 8. Effective January 1, 2003.)

§ 10235. (a) The director shall not disburse any grant funds until the applicant agrees that any agricultural conservation easement acquired shall be used by the applicant only for the purpose for which the funds were requested and that no other use, sale, or other disposition of the easement shall be permitted unless approved by the director, or where the easement may be transferred to a public agency or nonprofit organization, for management purposes.

(b) If a local government or nonprofit organization holding the easement is dissolved, it shall be transferred to an appropriate public agency or nonprofit organization, as provided in this division.

(c) The easement, or any of its terms, may only be amended with the consent of all of the necessary parties to the easement, including the landowner, the easement holder, and the director. The director shall determine that the amendment is not inconsistent with this section before it may be amended.
(Amended by Stats. 2002, Ch. 616, Sec. 9. Effective January 1, 2003.)

§ 10235.5. The department may establish a payment system for the purchase of an agricultural conservation easement that is mutually satisfactory to the department and the seller of the easement, provided that full payment for the easement is secured.
(Added by Stats. 1999, Ch. 503, Sec. 10. Effective January 1, 2000.)

§ 10236. If the funds are used for the acquisition of an agricultural conservation easement pursuant to a local transfer of development rights program, upon the sale of the easement and its attendant development rights, the entity that holds the easement shall reimburse the fund by an amount equal to the fair market value of the easement, as determined by an appraisal approved by the department.
(Amended by Stats. 2002, Ch. 616, Sec. 10. Effective January 1, 2003.)

§ 10237. The director shall not disburse any grant funds for easement or fee title acquisitions unless the applicant, and in the case of an easement acquisition grant, the seller, agrees to restrict the use of the land in perpetuity, subject to review after 25 years.
(Amended by Stats. 2002, Ch. 616, Sec. 11. Effective January 1, 2003.)

§ 10238. The director shall not disburse any grant funds to acquire agricultural conservation easements which restrict husbandry practices.
(Added by Stats. 1995, Ch. 931, Sec. 1. Effective January 1, 1996.)

§ 10239. The director shall disburse funds to an applicant for a grant for the acquisition of fee title to agricultural land only if the applicant agrees to all of the following conditions:

(a) Upon acquisition of the property, treat the property as encumbered by an agricultural conservation easement subject to this division and approved by the department.

(b) Sell the fee title subject to an agricultural conservation easement approved by the department to a private landowner within three years of the acquisition of the fee title.

(c) Reimburse the fund directly from escrow within 30 days after the sale of the restricted fee title by an amount equal to the department's proportional share of the net proceeds of the sale.

(1) The "net proceeds of the sale" is defined as the fair market value of the land less the value of the easement and associated transaction costs.

(2) The department's proportional share of the net proceeds of the sale shall be calculated using a factor reflecting the department's proportional share of the purchase price paid by the applicant in the original acquisition of fee title, taking into account contributions from all sources toward that original purchase price.
(Amended by Stats. 2007, Ch. 254, Sec. 6. Effective September 26, 2007.)

§ 10240. (a) The department shall adopt rules and regulations for the implementation of this division.

(b) Rules or regulations adopted by the department pursuant to this section shall be adopted in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).
(Amended by Stats. 2002, Ch. 616, Sec. 13. Effective January 1, 2003.)

§ 10241. The department shall adopt the criteria necessary for its approval of grant applications.
(Amended by Stats. 2002, Ch. 616, Sec. 14. Effective January 1, 2003.)

§ 10242. The director shall review, and approve or disapprove, grant applications from applicants for the acquisition of agricultural conservation easements on agricultural land or the acquisition of fee title to agricultural land pursuant to Section 10239.
(Amended by Stats. 1999, Ch. 503, Sec. 15. Effective January 1, 2000.)

§ 10243. The department shall allocate available state funds to applicants for the acquisition of agricultural conservation easements. However, no governmental agency shall condition the issuance of an entitlement to use on a landowner's granting of a fee interest or less than a fee interest in property pursuant to this chapter.
(Amended by Stats. 1999, Ch. 503, Sec. 16. Effective January 1, 2000.)

§ 10244. To be eligible to receive funds pursuant to this division for the acquisition of either agricultural conservation easements or fee title interests, qualified applicants shall submit to the department documentation of the applicable local government's adopted general plan that demonstrates a long-term commitment to agriculture and agricultural land conservation, including a summary of goals, objectives, and policies and implementation measures that support that commitment.
(Amended by Stats. 2002, Ch. 616, Sec. 15. Effective January 1, 2003.)

§ 10245. The program shall reimburse any school district which requests reimbursement for any net loss of property tax revenues occurring as a result of the program.
(Added by Stats. 1995, Ch. 931, Sec. 1. Effective January 1, 1996.)

§ 10246. Grants may be made for land improvements. Use of these grants shall be limited to the improvement of lands protected by agricultural conservation easements under the program, or of lands protected by other qualified conservation easement programs, if the improvement will directly benefit the lands protected by agricultural conservation easements under the program. An application for a land improvement grant shall be evaluated with respect to the extent to which it satisfies one or more of the following criteria:

(a) The improvement will enhance the agricultural value of the land protected by the easement, and promote its long-term sustainable agricultural use such as water supply development and revegetation of eroding streambanks.

(b) The improvement will increase the compatibility of agricultural operations with sensitive natural areas.

(c) The improvement will demonstrate new and innovative best management practices which have the potential for wide application.

(d) The proposed improvement includes the financial and technical involvement of other agencies, such as resource conservation districts, the Wildlife Conservation Board, the United States Farm Services Agency, and the United States Natural Resources Conservation Service.

(e) The improvement is part of a coordinated watershed management plan or the equivalent.

(f) The application satisfies other relevant criteria established by the department.
(Amended by Stats. 2002, Ch. 616, Sec. 16. Effective January 1, 2003.)

CHAPTER 3. Eligibility and Selection Criteria

[10250-10255] (Chapter 3 added by Stats. 1995, Ch. 931, Sec. 1.)

§ 10250. In reviewing applications pursuant to this division, the department shall determine whether the proposed project meets the applicable requirements set forth in this division and conforms with any rules or regulations adopted by the department pursuant to this division.
(Amended by Stats. 2002, Ch. 616, Sec. 17. Effective January 1, 2003.)

§ 10251. Applicants for an agricultural conservation easement or fee acquisition grant shall meet all of the following eligibility criteria:

(a) The parcel proposed for conservation is expected to continue to be used for, and is large enough to sustain, commercial agricultural production. The land is also in an area that possesses the necessary market, infrastructure, and agricultural support services, and the surrounding parcel sizes and land uses will support long-term commercial agricultural production.

(b) The applicable city or county has a general plan that demonstrates a long-term commitment to agricultural land conservation. This commitment shall be reflected in the goals, objectives, policies, and implementation measures of the plan, as they relate to the area of the county or city where the easement acquisition is proposed.

(c) Without conservation, the land proposed for protection is likely to be converted to nonagricultural use in the foreseeable future.

(Amended by Stats. 2002, Ch. 616, Sec. 18. Effective January 1, 2003.)

§ 10252. The director shall evaluate a proposal for a fee title or agricultural conservation easement acquisition grant based upon the overall value of the project, taking into consideration the goals and objectives for this program, and the extent to which the proposed project satisfies the following selection criteria:

(a) The quality of the agricultural land, based on land capability, farmland mapping and monitoring program definitions, productivity indices, and other soil, climate, and vegetative factors.

(b) The proposal meets multiple natural resource conservation objectives, including, but not limited to, wetland protection, wildlife habitat conservation, and scenic open-space preservation.

(c) The city or county demonstrates a long-term commitment to agricultural land conservation as demonstrated by the following:

(1) The general plan and related land use policies of the city or county.

(2) Policies of the local agency formation commission.

(3) California Environmental Quality Act policies and procedures.

(4) The existence of active local agricultural land conservancies or trusts.

(5) The use of an effective right-to-farm ordinance.

(6) Applied strategies for the economic support and enhancement of agricultural enterprise, including water policies, public education, marketing support, and consumer and recreational incentives.

(7) Other relevant policies and programs.

(d) If the land is in a county that participates in the Williamson Act (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code), the land proposed for protection is within a county or city designated agricultural preserve.

(e) The land proposed for conservation is within two miles outside of the exterior boundary of the sphere of influence of a city as established by the local agency formation commission.

(f) The applicant demonstrates fiscal and technical capability to effectively carry out the proposal. Technical capability may be demonstrated by agricultural land conservation expertise on the governing board or staff of the applicant, or through partnership with an organization that has that expertise.

(g) The proposal demonstrates a coordinated approach among affected landowners, local governments, and nonprofit organizations. If other entities are affected, there is written support from those entities for the proposal and a willingness to cooperate. The support of neighboring landowners who are not involved in the proposal shall be considered.

(h) The conservation of the land supports long-term private stewardship and continued agricultural production in the region.

(i) The proposal demonstrates an innovative approach to agricultural land conservation with a potential for wide application in the state.

(j) The amount of matching funds and in-kind services contributed by local governments and other sources toward the acquisition of the fee title or agricultural conservation easement, or both.

(k) The price of the proposed acquisition is cost-effective in comparison to the fair market value.

(l) Other relevant considerations established by the director.

(Amended by Stats. 2002, Ch. 616, Sec. 19. Effective January 1, 2003.)

§ 10252.5. (a) Notwithstanding any other provision of this division and subject to subdivision (b), the director may make a grant, and disburse moneys for that grant from a source other than the fund, to an applicant for the acquisition of an agricultural conservation easement, if the director determines that the grant meets the purposes of this division and upon appropriation by the Legislature with regard to state funds from a source other than the fund.

(b) An agricultural conservation easement that is funded by a grant issued pursuant to subdivision (a) shall meet all of the following requirements:

(1) The primary purpose for which the easement is being sought is consistent with continuing agricultural use of the easement property.

(2) The easement does not, and will not, substantially prevent agricultural uses on the easement property.

(3) Any restriction on the current or reasonably foreseeable agricultural use of the easement property would only be imposed to restrict those areas of the easement property that are not in cultivation.

(4) If the easement property has characteristics or qualities that meet the original purpose of the funding source as cultivated land, the easement property may continue to be commercially cultivated with the minimum restrictions necessary to meet the original funding source requirements.

(5) The nonagricultural qualities that will be protected by the easement are inherent to the easement property.

(6) The easement will require that a subsequent easement or deed restriction placed on the easement property will be subordinate to the agricultural conservation easement and require approval of the director.

(c) (1) In enacting this provision, it is the intent of the Legislature that moneys other than those appropriated to the fund be used to provide grants to implement this section.

(2) The Farm, Ranch, and Watershed Account is hereby established within the Soil and Conservation Fund. Moneys in that account shall be used to provide grants to implement this section.

(Added by Stats. 2010, Ch. 323, Sec. 1. Effective January 1, 2011.)

§ 10253. Nothing in this chapter shall grant any new authority to the department to affect local policy or land use decisionmaking.

(Added by Stats. 1995, Ch. 931, Sec. 1. Effective January 1, 1996.)

§ 10254. Before an application for an agricultural conservation easement or fee title acquisition grant is approved by the department pursuant to the program, the entity that is applying for the grant shall provide public notice to parties reasonably likely to be interested in the property, including the county and city in

which the property is located, conservation, agricultural, and development organizations, adjacent property owners, and the general public. Written notice shall be provided as follows:

(a) Notice shall be provided to adjacent landowners as indicated in the county tax rolls not less than 30 days prior to the expected date of the local government's consideration of the resolution required pursuant to subdivision (b) of Section 10234.

(b) The notice to the county and city shall be provided not less than 30 days before the entity applies for the grant to acquire an agricultural conservation easement.

(Amended by Stats. 2002, Ch. 616, Sec. 20. Effective January 1, 2003.)

§ 10255. Prior to the disbursement of grant funds for easements or fee title acquisitions under this division, all of the following conditions shall be met:

(a) The proposed agricultural conservation project shall be deemed by the department to be compatible with the applicable city or county general plan.

(b) The governing body of the applicable city or county approves the easement proposal by resolution.

(c) For land within a city's sphere of influence, the proposed agricultural conservation project shall be deemed by the department to be compatible with both the applicable county and city general plans. In addition, both the applicable county and city shall have adopted resolutions approving the easement proposal.

(Added by Stats. 2002, Ch. 616, Sec. 22. Effective January 1, 2003.)

CHAPTER 4. Agricultural Conservation Easements

[10260-10264] (Chapter 4 added by Stats. 1995, Ch. 931, Sec. 1.)

§ 10260. (a) In determining the amount of funding to be provided for an agricultural conservation easement or fee acquisition grant, the department shall take reasonable steps to ensure that the total purchase price of the agricultural conservation easement or, in the case of a fee title acquisition, the total purchase price of the subject property does not exceed fair market value, taking into consideration the funding from all sources. The determination of fair market value shall be accomplished, as follows:

(1) An applicant shall select and retain an independent real estate appraiser to determine the value of the subject property, including any proposed agricultural conservation easement.

(2) The department shall review and consider an applicant's appraisal and may, at its sole discretion, require or obtain an additional appraisal.

(3) The easement value shall be calculated by determining the difference between the fair market value and the restricted value of the property.

(b) The department may conditionally approve grant applications prior to completion of final appraisals, provided an acceptable appraisal and all other requirements of this division are met before any disbursement of grant funds.

(c) The department shall have final authority to determine the acceptability of an appraisal pursuant to this division.

(Amended by Stats. 2002, Ch. 616, Sec. 21. Effective January 1, 2003.)

§ 10260.5. For purposes of this division, an agricultural conservation easement shall be recorded in the county recorder's office in each county in which the real property affected is located. Once recorded, the easement shall attach to the real property in perpetuity.
(Amended by Stats. 2002, Ch. 616, Sec. 23. Effective January 1, 2003.)

§ 10261. (a) Whenever any entity exercises the power of eminent domain to acquire land subject to an agricultural conservation easement under this program, the condemnor shall pay just compensation to the owner of the land in fee and to the owner of the easement as follows:

(1) The owner of the land in fee shall be paid the full value that would have been payable to the owner but for the existence of the easement less the fair market value of the easement, as determined by an independent appraisal, at the time of condemnation.

(2) The program, and any other contributing parties if so provided in the easement, shall be paid the value of the easement at the time of condemnation.

(b) The director may provide, by regulation, or, pursuant to the terms of the easement, that in the case of acquisition of the easement by a federal agency, that the agency shall agree to the amount of compensation paid for the easement that is determined pursuant to subdivision (a), or pay the current fair market value of the land subject to an agricultural easement. The director shall distribute the proceeds of a land sale that is made in accordance with the conditions set forth in subdivision (a).
(Amended by Stats. 2002, Ch. 616, Sec. 24. Effective January 1, 2003.)

§ 10262. An agricultural conservation easement shall not prevent any of the following:

(a) The granting of leases, assignments, or other conveyances, or the issuing of permits, licenses, or other authorization, for the exploration, development, storage, or removal of oil and gas by the owner of the subject land, or for the development of related facilities or for the conduct of incidental activities, as long as the agricultural productivity of the subject land and any multiple uses that made the acquisition a priority for selection under the program, are not thereby significantly impaired.

(b) The granting of rights-of-way by the owner of the subject land in and through the land for the installation, transportation, or use of water, sewage, electric, telephone, gas, oil, or oil products lines, stock water development and storage, energy generation, and fencing, provided that the agricultural productivity of the land and any multiple uses that made the acquisition a priority for selection under the program, are not significantly impaired by those activities.

(c) The construction and use of structures on the subject land that are necessary for agricultural production and marketing, including, but not limited to, barns, shops, packing sheds, cooling facilities, greenhouses, roadside marketing stands, stock water development and storage, energy generation, and fencing, provided that the agricultural productivity of the land and any multiple uses that made the acquisition a priority for selection under the program, are not significantly impaired by those activities.

(d) Customary part time or off season rural enterprises or activities, including, but not limited to, hunting and fishing, wildlife habitat improvement, predator control, timber harvesting, and firewood production, provided that the agricultural productivity of the land and any multiple uses that made the acquisition a priority for selection under the program, are not significantly impaired by those activities.
(Amended by Stats. 2002, Ch. 616, Sec. 25. Effective January 1, 2003.)

§ 10262.1. Except as provided in Section 10238, an easement may, at the request of the landowner, establish provisions that are more restrictive than those restrictions prescribed in this division.
(Added by Stats. 1999, Ch. 503, Sec. 22. Effective January 1, 2000.)

§ 10262.2. An agricultural conservation easement may provide for either or both of the following:

(a) Construction and use of additional residences for the immediate family members, as defined in subdivision (c) of Section 51230.1 of the Government Code, of the landowner.

(b) Construction and use of structures on the subject land for the purpose of providing necessary housing for seasonal or full-time employees of the agricultural operation.

(Added by Stats. 2002, Ch. 616, Sec. 26. Effective January 1, 2003.)

§ 10262.5. The granting of an agricultural conservation easement under this division shall not be interpreted to convey any rights of public access to the subject property.

(Added by Stats. 2002, Ch. 616, Sec. 27. Effective January 1, 2003.)

§ 10263. (a) The department shall act on an application for a grant within 180 days after the department determines that it is complete.

(b) If the department disapproves a grant application, the applicant shall be given written notice of the disapproval within 10 days of the department's decision. The written notice shall state the reason for the disapproval of the application.

(Amended by Stats. 2002, Ch. 616, Sec. 28. Effective January 1, 2003.)

§ 10264. The director shall disapprove the application for a grant for the acquisition of an agricultural conservation easement or fee title in any of the following circumstances:

(a) The application does not satisfy the eligibility criteria set forth in Section 10251.

(b) The department has determined that clear title to the agricultural conservation easement cannot be conveyed.

(c) There is insufficient money in the fund to carry out the acquisition.

(d) Other acquisitions have a higher priority.

(Amended by Stats. 2002, Ch. 616, Sec. 29. Effective January 1, 2003.)

CHAPTER 5. Termination of Agricultural Conservation Easements

[10270-10277] (Chapter 5 added by Stats. 1995, Ch. 931, Sec. 1.)

§ 10270. Twenty-five or more years from the date of sale of the agricultural conservation easement, the landowner may make a request to the department that the easement be reviewed for possible termination. Upon receipt of a request, the department shall immediately notify the affected local government to initiate a local government inquiry pursuant to Section 10271.

(Amended by Stats. 2002, Ch. 616, Sec. 31. Effective January 1, 2003.)

§ 10271. (a) To terminate the agricultural conservation easement, the local government in which the subject land is located shall undertake an inquiry to determine the feasibility of profitable farming on the subject land.

(1) The local government inquiry shall include onsite inspection of the subject land, the holding of a public hearing in the county in which the subject land is located, held after adequate public notice of the hearing has been given and the preparation of a report documenting the findings of the local government.

(2) The inquiry shall be concluded and a report submitted to the department within 150 days of the department notifying the local government of the request pursuant to Section 10270.

(b) The department shall make a decision as to the request within 195 days after notifying the local government of the request or within 45 days after receiving the local government report summarizing the results of its inquiry, whichever occurs later.

(Amended by Stats. 2002, Ch. 616, Sec. 32. Effective January 1, 2003.)

§ 10272. An agricultural conservation easement may be terminated only with the approval of the city council of the city in which the subject land is located, or of the board of supervisors if the land is located in an unincorporated area.

(Added by Stats. 1995, Ch. 931, Sec. 1. Effective January 1, 1996.)

§ 10273. (a) For the department to approve the termination of the agricultural conservation easement, all of the following findings shall be made:

(1) The termination is consistent with the purposes of this division.

(2) The termination is in the public interest.

(3) The termination is not likely to result in the removal of adjacent lands from commercial agricultural production.

(4) The termination is for an alternate use which is consistent with the applicable provisions of the city or county general plan.

(5) The termination will not result in discontiguous patterns of urban development.

(6) The conservation purposes, as defined in the agricultural conservation easement, can no longer be achieved.

(7) There is no land that is available and suitable for the use to which it is proposed that the restricted land be put to, or that development of the restricted land would provide more contiguous patterns of urban development than development of proximate unrestricted land.

(b) As used in subdivision (a), the following terms have the following meaning:

(1) "Proximate unrestricted land" means land that is not restricted by an easement and which is sufficiently close to land that is restricted so that it can serve as a practical alternative for the use that is proposed for the restricted land.

(2) "Suitable for the use" means that the salient features of the proposed use can be served by land not restricted by an easement. The nonrestricted land may be a single parcel or may be a combination of discontiguous parcels.

(c) The department shall request from the easement holder, and shall consider the easement holder's assessment of, information regarding the continuing value and viability of the subject property for the conservation purposes for which the easement was originally created. The department may consider the easement holder's investment in, or experience with, the subject property in evaluating the proposed termination.

(Amended by Stats. 2002, Ch. 616, Sec. 33. Effective January 1, 2003.)

§ 10274. The uneconomic character of existing agricultural use shall not by itself be sufficient reason for termination of the agricultural conservation easement, unless the director determines there is no other reasonable or comparable agricultural use for the land, and the conservation purposes, as defined in the agricultural conservation easement, can no longer be achieved. If the director determines that the existing use is uneconomic, that there is no other reasonable or comparable agricultural use of the land, and the conser-

vation purposes as defined in the agricultural conservation easement can no longer be achieved, termination of the easement may be approved by the secretary without making a finding pursuant to paragraph (6) of subdivision (a) of Section 10273.
(Amended by Stats. 2002, Ch. 616, Sec. 34. Effective January 1, 2003.)

§ 10275. (a) The landowner's request for termination shall be accompanied by a proposal for a specified alternative use of the land. The proposal for the alternative use shall list those governmental agencies known by the landowner to have permit authority related to the proposed alternative use.

(b) The landowner requesting a termination shall be required to pay the total amount of the costs incurred by the local government responsible for the administration of proceedings related to the landowner's request for termination, if requested by the local government.
(Added by Stats. 1995, Ch. 931, Sec. 1. Effective January 1, 1996.)

§ 10276. (a) If the termination of the agricultural conservation easement is approved pursuant to this division or pursuant to a judicial proceeding in a court of competent jurisdiction, the landowner shall repurchase the easement by paying to the fund and, if so provided in the easement, to any other contributing parties, the difference, at that time, between the fair market value and the restricted value. That difference shall be determined by an appraisal approved by the state and conducted at the landowner's expense.

(b) If the landowner fails to complete the termination process by repurchasing the agricultural conservation easement within one year from the date of the department's approval of the termination of the easement, the termination approval shall lapse and the landowner shall wait at least one year before reapplying to terminate the easement.

(c) Money received from the repurchase of agricultural conservation easements shall be deposited in the fund and shall be available, upon appropriation, for the purposes set forth in this division, except as provided in subdivision (d).

(d) Where an easement was originally purchased with moneys from sources other than the program, the easement may require that moneys received from the repurchase of the easement be divided proportionally between the fund and any other funding source, including nonprofit organizations, in amounts that are proportional to the original contribution made by each party that contributed to that purchase. If provided in an easement, a nonprofit organization that contributed indirect costs and services to the purchase of an easement may recoup the actual amount of its contribution, plus an amount not exceeding 3 percent of the total amount of the contribution for administrative costs of ongoing easement monitoring and enforcement. Those contributions shall be deducted from the total proceeds prior to the proportional division defined herein.
(Amended by Stats. 2002, Ch. 616, Sec. 35. Effective January 1, 2003.)

§ 10277. If the termination of the agricultural conservation easement is not approved, the landowner may reapply for termination not sooner than one year after the submittal of the denied application.
(Added by Stats. 1995, Ch. 931, Sec. 1. Effective January 1, 1996.)

DIVISION 13. Environmental Quality

[21000-21189.3] (Division 13 added by Stats. 1970, Ch. 1433.)

CHAPTER 2.5. Definitions

[21060-21072] (Chapter 2.5 added by Stats. 1972, Ch. 1154.)

§ 21060.1. (a) "Agricultural land" means prime farmland, farmland of statewide importance, or unique farmland, as defined by the United States Department of Agriculture land inventory and monitoring criteria, as modified for California.

(b) In those areas of the state where lands have not been surveyed for the classifications specified in subdivision (a), "agricultural land" means land that meets the requirements of "prime agricultural land" as defined in paragraph (1), (2), (3), or (4) of subdivision (c) of Section 51201 of the Government Code. *(Added by Stats. 1993, Ch. 812, Sec. 2. Effective January 1, 1994.)*

CHAPTER 2.6. General

[21080-21098] (Chapter 2.6 added by Stats. 1972, Ch. 1154.)

§ 21094. (a) Where a prior environmental impact report has been prepared and certified for a program, plan, policy, or ordinance, the lead agency for a later project that meets the requirements of this section shall examine significant effects of the later project upon the environment by using a tiered environmental impact report, except that the report on the later project is not required to examine those effects that the lead agency determines were either of the following:

(1) Mitigated or avoided pursuant to paragraph (1) of subdivision (a) of Section 21081 as a result of the prior environmental impact report.

(2) Examined at a sufficient level of detail in the prior environmental impact report to enable those effects to be mitigated or avoided by site-specific revisions, the imposition of conditions, or by other means in connection with the approval of the later project.

(b) This section applies only to a later project that the lead agency determines is all of the following:

(1) Consistent with the program, plan, policy, or ordinance for which an environmental impact report has been prepared and certified.

(2) Consistent with applicable local land use plans and zoning of the city, county, or city and county in which the later project would be located.

(3) Not subject to Section 21166.

(c) For purposes of compliance with this section, an initial study shall be prepared to assist the lead agency in making the determinations required by this section. The initial study shall analyze whether the later project may cause significant effects on the environment that were not examined in the prior environmental impact report.

(d) All public agencies that propose to carry out or approve the later project may utilize the prior environmental impact report and the environmental impact report on the later project to fulfill the requirements of Section 21081.

(e) When tiering is used pursuant to this section, an environmental impact report prepared for a later project shall refer to the prior environmental impact report and state where a copy of the prior environmental impact report may be examined.

(f) This section shall become operative on January 1, 2016.

(Repealed (in Sec. 3.5) and added by Stats. 2010, Ch. 496, Sec. 4. Effective September 29, 2010. Section operative January 1, 2016, by its own provisions.)

Revenue and Taxation Code

DIVISION 1. Property Taxation

[50-5911] (Division 1 enacted by Stats. 1939, Ch. 154.)

PART 2. Assessment

[201-1367] (Part 2 enacted by Stats. 1939, Ch. 154.)

CHAPTER 3. Assessment Generally

[401-674] (Chapter 3 enacted by Stats. 1939, Ch. 154.)

Article 1. **General Requirements**

[401-409] (Article 1 enacted by Stats. 1939, Ch. 154.)

§ 402.1. (a) In the assessment of land, the assessor shall consider the effect upon value of any enforceable restrictions to which the use of the land may be subjected. These restrictions shall include, but are not limited to, all of the following:

(1) Zoning.

(2) Recorded contracts with governmental agencies other than those provided in Sections 422, 422.5, and 422.7.

(3) Permit authority of, and permits issued by, governmental agencies exercising land use powers concurrently with local governments, including the California Coastal Commission and regional coastal commissions, the San Francisco Bay Conservation and Development Commission, and the Tahoe Regional Planning Agency.

(4) Development controls of a local government in accordance with any local coastal program certified pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code.

(5) Development controls of a local government in accordance with a local protection program, or any component thereof, certified pursuant to Division 19 (commencing with Section 29000) of the Public Resources Code.

(6) Environmental constraints applied to the use of land pursuant to provisions of statutes.

(7) Hazardous waste land use restriction pursuant to Section 25240 of the Health and Safety Code.

(8) A recorded conservation, trail, or scenic easement, as described in Section 815.1 of the Civil Code, that is granted in favor of a public agency, or in favor of a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, or open-space condition or use.

(9) A solar-use easement pursuant to Chapter 6.9 (commencing with Section 51190) of Part 1 of Division 1 of Title 5 of the Government Code.

(b) There is a rebuttable presumption that restrictions will not be removed or substantially modified in the predictable future and that they will substantially equate the value of the land to the value attributable to the legally permissible use or uses.

(c) Grounds for rebutting the presumption may include, but are not necessarily limited to, the past history of like use restrictions in the jurisdiction in question and the similarity of sales prices for restricted and unrestricted land. The possible expiration of a restriction at a time certain shall not be conclusive evidence of the future removal or modification of the restriction unless there is no opportunity or likelihood of the continuation or renewal of the restriction, or unless a necessary party to the restriction has indicated an intent to permit its expiration at that time.

(d) In assessing land with respect to which the presumption is unrebutted, the assessor shall not consider sales of otherwise comparable land not similarly restricted as to use as indicative of value of land under restriction, unless the restrictions have a demonstrably minimal effect upon value.

(e) In assessing land under an enforceable use restriction wherein the presumption of no predictable removal or substantial modification of the restriction has been rebutted, but where the restriction nevertheless retains some future life and has some effect on present value, the assessor may consider, in addition to all other legally permissible information, representative sales of comparable lands that are not under restriction but upon which natural limitations have substantially the same effect as restrictions.

(f) For the purposes of this section the following definitions apply:

(1) "Comparable lands" are lands that are similar to the land being valued in respect to legally permissible uses and physical attributes.

(2) "Representative sales information" is information from sales of a sufficient number of comparable lands to give an accurate indication of the full cash value of the land being valued.

(g) It is hereby declared that the purpose and intent of the Legislature in enacting this section is to provide for a method of determining whether a sufficient amount of representative sales information is available for land under use restriction in order to ensure the accurate assessment of that land. It is also hereby declared that the further purpose and intent of the Legislature in enacting this section and Section 1630 is to avoid an assessment policy which, in the absence of special circumstances, considers uses for land that legally are not available to the owner and not contemplated by government, and that these sections are necessary to implement the public policy of encouraging and maintaining effective land use planning. This statute shall not be construed as requiring the assessment of any land at a value less than as required by Section 401 or as prohibiting the use of representative comparable sales information on land under similar restrictions when this information is available.

(Amended by Stats. 2013, Ch. 406, Sec. 2. Effective January 1, 2014.)

Article 1.5. Valuation of Open-Space Land Subject to an Enforceable Restriction

[421-430.5] (Article 1.5 added by Stats. 1967, Ch. 1711.)

§ 421. For the purposes of this article:

(a) "Agricultural preserve" means an agricultural preserve created pursuant to the California Land Conservation Act of 1965 (Williamson Act) (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code).

(b) "Contract" means a contract executed pursuant to the California Land Conservation Act.

(c) "Agreement" means an agreement executed pursuant to the California Land Conservation Act prior to the 61st day following the final adjournment of the 1969 Regular Session of the Legislature and

that, taken as a whole, provides restrictions, terms and conditions that are substantially similar or more restrictive than those required by statute for a contract.

(d) "Scenic restriction" means any interest or right in real property acquired by a city or county pursuant to Chapter 12 (commencing with Section 6950) of Division 7 of Title 1 of the Government Code, where the deed or other instrument granting such right or interest imposes restrictions that, through limitation of their future use, will effectively preserve for public use and enjoyment, the character of open spaces and areas as defined in Section 6954 of the Government Code.

A scenic restriction shall be for an initial term of 10 years or more, and shall provide for either of the following:

(1) A method whereby the term may be extended by mutual agreement of the parties.

(2) That the initial term shall be subject to annual automatic one-year extensions as provided for contracts in Sections 51244, 51244.5, and 51246 of the Government Code, unless notice of nonrenewal is given as provided in Section 51245 of the Government Code.

A scenic restriction may not be terminated prior to the expiration of the initial term, and any extension thereof, except as provided for cancellation of contracts in Sections 51281, 51282, 51283 and 51283.3 of the Government Code, and subject to the provisions therein for payment of the cancellation fee.

(e) "Open-space easement" means an open-space easement granted to a county or city pursuant to Chapter 6.5 (commencing with Section 51050) of Part 1 of Division 1 of Title 5 of the Government Code if the easement is acquired prior to January 1, 1975, or an open-space easement granted to a county, city, or nonprofit organization pursuant to Chapter 6.6 (commencing with Section 51070) of Part 1 of Division 1 of Title 5 of the Government Code if the easement is acquired after January 1, 1975, or an open-space easement granted to a regional park district, regional park and open-space district, or regional open-space district under Article 3 (commencing with Section 5500) of Chapter 3 of Division 5 of the Public Resources Code.

(f) "Wildlife habitat contract" means any contract or amended contract or covenant involving, except as provided in Section 423.8, 150 acres or more of land entered into by a landowner with any agency or political subdivision of the federal or state government limiting the use of lands for a period of 10 or more years by the landowner to habitat for native or migratory wildlife and native pasture. These lands shall, by contract, be eligible to receive water for waterfowl or waterfowl management purposes from the federal government.

(g) "Open-space land" means any of the following:

(1) Land within an agricultural preserve and subject to a contract or an agreement.

(2) Land subject to a scenic restriction.

(3) Land subject to an open-space easement.

(4) Land that has been restricted by a political subdivision or an entity of the state or federal government, acting within the scope of its regulatory or other legal authority, for the benefit of wildlife, endangered species, or their habitats.

(h) "Typical rotation period" means a period of years during which different crops are grown as part of a plant cultural program. Typical rotation period does not mean the rotation period of timber.

(i) "Wildlife" means waterfowl of every kind and any other undomesticated mammal, fish, or bird, or any reptile, amphibian, insect, or plant.

(j) "Endangered species" means any species or subcategory thereof, as defined in the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code) or the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.), that has been classified and pro-

tected as an endangered, threatened, rare, or candidate species by any entity of the state or federal government.
(Amended by Stats. 1996, Ch. 997, Sec. 1. Effective September 27, 1996. Applicable, by Sec. 5 of Ch. 997, commencing with property taxes levied for the first lien date after September 27, 1996.)

§ 421.5. For purposes of this article, the following terms have the following meaning:

(a) "Agricultural conservation easement" shall have the same meaning as defined in Section 10211 of the Public Resources Code.

(b) "Open-space land" includes land subject to an agricultural conservation easement.
(Amended by Stats. 2002, Ch. 616, Sec. 37. Effective January 1, 2003.)

§ 422. For the purposes of this article and within the meaning of Section 8 of Article XIII of the Constitution, open-space land is "enforceably restricted" if it is subject to any of the following:

(a) A contract;

(b) An agreement;

(c) A scenic restriction entered into prior to January 1, 1975;

(d) An open-space easement; or

(e) A wildlife habitat contract.

For the purposes of this article no restriction upon the use of land other than those enumerated in this section shall be considered to be an enforceable restriction.
(Amended by Stats. 1975, Ch. 224.)

§ 422.5. For the purposes of this article, open-space land is "enforceably restricted" within the meaning of Section 8 of Article XIII of the California Constitution if it is subject to an agricultural conservation easement.
(Added by Stats. 1995, Ch. 931, Sec. 3. Effective January 1, 1996.)

§ 422.7. (a) For purposes of this section, the term "open-space land" includes land subject to contract for an urban agricultural incentive zone, as defined in subdivision (b) of Section 51040.3 of the Government Code. For purposes of this section, open-space land is enforceably restricted within the meaning of Section 8 of Article XIII of the California Constitution if it is subject to an urban agriculture incentive zone contract.

(b) (1) Open-space land subject to contract for an urban agricultural incentive zone pursuant to Section 52010.3 shall be valued for assessment at the rate based on the average per-acre value of irrigated cropland in California, adjusted proportionally to reflect the acreage of the property under contract, as most recently published by the National Agricultural Statistics Service of the United States Department of Agriculture.

(2) Notwithstanding the published rate, the valuation resulting from the section shall not exceed the lesser of either the valuation that would have resulted by a calculation under Section 110, or the valuation that would have resulted by a valuation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.

(c) The State Board of Equalization shall post the per-acre land value as published by the National Agricultural Statistics Service of the United States Department of Agriculture on its Internet Web site within 30 days of publication, and shall provide the rate to county assessors no later than January 1 of each assessment year.
(Added by Stats. 2013, Ch. 406, Sec. 3. Effective January 1, 2014.)

§ 423. Except as provided in Sections 423.7 and 423.8, when valuing enforceably restricted open-space land, other than land used for the production of timber for commercial purposes, the county assessor shall not consider sales data on lands, whether or not enforceably restricted, but shall value these lands by the capitalization of income method in the following manner:

(a) The annual income to be capitalized shall be determined as follows:

(1) Where sufficient rental information is available the income shall be the fair rent which can be imputed to the land being valued based upon rent actually received for the land by the owner and upon typical rentals received in the area for similar land in similar use, where the owner pays the property tax. Any cash rent or its equivalent considered in determining the fair rent of the land shall be the amount for which comparable lands have been rented, determined by average rents paid to owners as evidenced by typical land leases in the area, giving recognition to the terms and conditions of the leases and the uses permitted within the leases and within the enforceable restrictions imposed.

(2) Where sufficient rental information is not available, the income shall be that which the land being valued reasonably can be expected to yield under prudent management and subject to applicable provisions under which the land is enforceably restricted. There shall be a rebuttable presumption that "prudent management" does not include use of the land for a recreational use, as defined in subdivision (n) of Section 51201 of the Government Code, unless the land is actually devoted to that use.

(3) Notwithstanding any other provision herein, if the parties to an instrument which enforceably restricts the land stipulate therein an amount which constitutes the minimum annual income per acre to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated.

For the purposes of this section, income shall be determined in accordance with rules and regulations issued by the board and with this section and shall be the difference between revenue and expenditures. Revenue shall be the amount of money or money's worth, including any cash rent or its equivalent, which the land can be expected to yield to an owner-operator annually on the average from any use of the land permitted under the terms by which the land is enforceably restricted, including, but not limited to, that from the production of salt and from typical crops grown in the area during a typical rotation period, as evidenced by historic cropping patterns and agricultural commodities grown. When the land is planted to fruit-bearing or nut-bearing trees, vines, bushes, or perennial plants, the revenue shall not be less than the land would be expected to yield to an owner-operator from other typical crops grown in the area during a typical rotation period, as evidenced by historic cropping patterns and agricultural commodities grown. Proceeds from the sale of the land being valued shall not be included in the revenue from the land.

Expenditures shall be any outlay or average annual allocation of money or money's worth that has been charged against the revenue received during the period used in computing that revenue. Those expenditures to be charged against revenue shall be only those that are ordinary and necessary in the production and maintenance of the revenue for that period. Expenditures shall not include depletion charges, debt retirement, interest on funds invested in the land, interest on funds invested in trees and vines valued as land as provided by Section 429, property taxes, corporation income taxes, or corporation franchise taxes based on income. When the income used is from operating the land being valued or from operating comparable land, amounts shall be excluded from the income to provide a fair return on capital investment in operating assets other than the land, to amortize depreciable property, and to fairly compensate the owner-operator for his operating and managing services.

(b) The capitalization rate to be used in valuing land pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component, to be determined by the board and announced no later than October 1 of the year preceding the assessment year, which is the arithmetic mean, rounded to the nearest 1/4 percent,

of the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board as of September 1, and the corresponding yield rates for those bonds, as most recently published by the Federal Reserve Board as of each September 1 immediately prior to each of the four immediately preceding assessment years.

(2) A risk component that shall be a percentage determined on the basis of the location and characteristics of the land, the crops to be grown thereon and the provisions of any lease or rental agreement to which the land is subject.

(3) A component for property taxes that shall be a percentage equal to the estimated total tax rate applicable to the land for the assessment year times the assessment ratio. The estimated total tax rate shall be the cumulative rates used to compute the state's reimbursement of local governments for revenues lost on account of homeowners' property tax exemptions in the tax rate area in which the enforceably restricted land is situated.

(4) A component for amortization of any investment in perennials over their estimated economic life when the total income from land and perennials other than timber exceeds the yield from other typical crops grown in the area.

(c) The value of the land shall be the quotient for the income determined as provided in subdivision (a) divided by the capitalization rate determined as provided in subdivision (b).

(d) Unless a party to an instrument which creates an enforceable restriction expressly prohibits such a valuation, the valuation resulting from the capitalization of income method described in this section shall not exceed the lesser of either the valuation that would have resulted by calculation under Section 110, or the valuation that would have resulted by calculation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.

In determining the 1975 base year value under Article XIIIA of the California Constitution for any parcel for comparison, the county may charge a contractholder a fee limited to the reasonable costs of the determination not to exceed twenty dollars ($20) per parcel.

(e) If the parties to an instrument that creates an enforceable restriction expressly so provide therein, the assessor shall assess those improvements that contribute to the income of land in the manner provided herein. As used in this subdivision "improvements which contribute to the income of the land" shall include, but are not limited to, wells, pumps, pipelines, fences, and structures which are necessary or convenient to the use of the land within the enforceable restrictions imposed.

(Amended by Stats. 2003, Ch. 471, Sec. 13. Effective January 1, 2004.)

§ 423.3. Any city or county may allow land subject to an enforceable restriction under the Williamson Act or a migratory waterfowl habitat contract to be assessed in accordance with one or more of the following:

(a) Land specified in paragraph (1) of subdivision (a) of Section 16142 of the Government Code shall be assessed at the value determined as provided in Section 423, but not to exceed a uniformly applied percentage of its base year value pursuant to Section 110.1, adjusted to reflect the percentage change in the cost of living not to exceed 2 percent per year. In no event shall that percentage be less than 70 percent.

(b) Prime commercial rangeland shall be assessed at the value determined as provided in Section 423, but not to exceed a uniformly applied percentage of its base year value pursuant to Section 110.1, adjusted to reflect the percentage change in the cost of living not to exceed 2 percent per year. In no event shall that percentage be less than 80 percent.

For purposes of this subdivision, "prime commercial rangeland" means rangeland which meets all of the following physical-chemical parameters:

(1) Soil depth of 12 inches or more.

(2) Soil texture of fine sandy loam to clay.

(3) Soil permeability of rapid to slow.

(4) Soil with at least 2.5 inches of available water holding capacity in profile.

(5) A slope of less than 30 percent.

(6) A climate with 80 or more frost-free days per year.

(7) Ten inches or more average annual precipitation.

(8) When managed at potential, the land generally requires less than 17 acres to support one animal unit per year.

Property owners of land specified in this subdivision, shall demonstrate that their land falls within the above definition when requested by the city or county.

(c) Land specified in subdivision (b) of Section 16142 of the Government Code shall be assessed at the value determined as provided in Section 423, but not to exceed a uniformly applied percentage of its base year value pursuant to Section 110.1, adjusted to reflect the percentage change in the cost of living not to exceed 2 percent per year. In no event shall that percentage be less than 90 percent.

(d) Waterfowl habitat shall be assessed at the value determined as provided in Section 423.7 but not to exceed a uniformly applied percentage of its base year value pursuant to Section 110.1, adjusted to reflect the percentage change in the cost of living not to exceed 2 percent per year. In no event shall that percentage be less than 90 percent.

(Amended by Stats. 2015, Ch. 454, Sec. 5. Effective January 1, 2016.)

§ 423.4. Land subject to a farmland security zone contract specified in Section 51296.1 of the Government Code shall be valued for assessment purposes at 65 percent of the value under Section 423 or 65 percent of the value under Section 110.1, whichever is lower.

(Amended by Stats. 2002, Ch. 616, Sec. 38. Effective January 1, 2003.)

§ 423.5. When valuing open-space land which is enforceably restricted and used for the production of timber for commercial purposes, the county assessor shall not consider sales data on lands, whether or not enforceably restricted, but shall determine the value of such timberland to be the present worth of the income which the future harvest of timber crops from the land and the income from other allowed compatible uses can reasonably be expected to yield under prudent management. The value of timberland pursuant to this section shall be determined in accordance with rules and regulations issued by the board. In determining the value of timberland pursuant to this section, the board and the county assessor shall use the capitalization rate derived pursuant to subdivision (b) of Section 423. The ratio prescribed in Section 401 shall be applied to the value of the land determined in accordance with this section to obtain its assessed value.

For the purposes of this section, the income of each acre of land shall be presumed to be no less than two dollars ($2), and the present worth of this income shall not be reduced by the value of any exempt timber on the land.

There shall be a rebuttable presumption that "prudent management" does not include use of the land for recreational use, as defined in subdivision (n) of Section 51201 of the Government Code, unless the land is actually devoted to such use.

(Amended by Stats. 1984, Ch. 678, Sec. 21.)

§ 423.7. (a) When valuing open-space land subject to a wildlife habitat contract, as defined in subdivision (f) of Section 421, the board, for purposes of surveys required by Section 15640 of the Government Code, and all assessors shall value that land by using the average current per-acre value based on recent sales including the sale of an undivided interest therein, of lands subject to a wildlife habitat contract within the same county. Whenever ownership of open-space land is held by a corporation and the principal underlying asset of that corporation is represented by those lands, the price received for each bona fide sale of shares of stock in those corporations or certificates of membership in nonprofit corporations shall be treated as a sale of open-space land by the assessor in determining average value for open-space lands within the meaning of this section.

(b) In the valuation of open-space land subject to a wildlife habitat contract as defined in subdivision (f) of Section 421, irrespective of the number of parcels represented by a single ownership, the assessor shall use sales of less than 150 acres in determining the average value of those lands only if the sale is of an undivided interest of land subject to a wildlife habitat contract as defined in subdivision (f) of Section 421. The assessor shall not use any other sale of less than 150 acres of land.

(c) In the event of sales of corporate stock or membership, as referred to in subdivision (a), the assessor shall determine the average per-acre sales price and multiply such sales price by the number of acres held under the single ownership from which the land was sold, in order to determine the current total value of the single ownership.

(d) The assessor shall then determine the average current per-acre value of that land subject to a wildlife habitat contract, as defined in subdivision (f) of Section 421, by adding the current value of all those lands including corporate sales as set forth in subdivision (c), of which there has been a recent sale, and then dividing the total current value by the total number of acres of all that land of which there has been a recent sale.

(e) Whenever less than 10 years remain to the expiration of a wildlife habitat contract, the value of land determined under subdivision (a) shall be modified pursuant to this subdivision. If the full cash value of that land as determined under Section 110.1 is greater than the value determined under subdivision (a) of this section, a pro rata share of the amount of that difference shall be added in annual equal installments to the value determined pursuant to subdivision (a) over the remaining term of the wildlife habitat contract.

(f) Owners of open-space land subject to a wildlife habitat contract which has been used exclusively for habitat by native or migratory wildlife, recreation, and native pasture shall report the sale of that land, or an interest therein, to the county assessor within 30 days of the sale.

(g) In the event that a wildlife habitat contract is canceled upon the application of an owner of the land covered by the contract, a penalty equal to 6 percent of the full cash value of the land as determined under Section 110.1 on the lien date next following cancellation shall be imposed. The penalty shall become delinquent on the December 10 next following that lien date and shall be treated in all respects as a delinquent penalty imposed under Section 2617 or 2704. This subdivision shall not apply when a wildlife habitat contract is canceled without the consent of an owner of the land affected.

(h) The provisions of Section 426 shall not apply to any lands valued for assessment purposes pursuant to the provisions of this section.

(i) The assessor shall not value any land under a single ownership under this section unless the owners of that land have provided the assessor with a schedule of sales of that land that have occurred during the previous four years.

(j) If there are no prior sales within the county of open-space land subject to a wildlife contract and used exclusively for habitat by native or migratory wildlife, recreation, and native pasture, the assessor shall value the land pursuant to Section 110.1.

(k) Unless a party to an instrument which creates an enforceable restriction expressly prohibits that valuation, the valuation resulting from the method described in this section shall not exceed the valuation that would have resulted by calculation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.
(Amended by Stats. 1983, Ch. 1281, Sec. 16. Effective September 30, 1983.)

§ 423.8. (a) Notwithstanding the acreage requirement specified in subdivision (f) of Section 421, both of the following apply with respect to enrollment in a wildlife habitat contract:

(1) Any open-space land that has been restricted as wildlife or endangered species habitat by a political subdivision of the state or entity of state government shall, upon the request of the owner of that land, be enrolled in a wildlife habitat contract with the political subdivision of the state or entity of state government that has so restricted the subject open-space land.

(2) Any open-space land that has been restricted as wildlife or endangered species habitat by an agency of the federal government shall, upon the request of the landowner, be enrolled in a wildlife habitat contract with the city or county having jurisdiction over the restricted open-space land.

For any open-space land eligible for valuation under Section 422.5, 423, 423.3, 423.5, 426, or 435, that has also been enrolled in a wildlife habitat contract pursuant to this section, the controlling value of the land shall, except as otherwise provided in the following sentence, be the lower of the values determined for that land pursuant to those sections or Section 402.1. Other lands enrolled in a wildlife habitat contract pursuant to this section shall be assessed at the value determined as provided in Section 402.1.

(b) In no event shall this section or Section 421 be construed to authorize a political subdivision or any entity of the state or federal government to restrict the otherwise lawful use of property by designating all or part of that property as wildlife habitat or endangered species habitat without the consent of the owner of that property.

(c) It is the intent of the Legislature in adding this section to establish a nonexclusive alternative method of recognizing, for purposes of property taxation, the existence of certain governmental restrictions on the use of property. Neither this section nor Section 402.1 shall be construed or applied to require the existence of a wildlife habitat contract, as described in this section, as a necessary condition for recognizing the effect upon the taxable value of property of any enforceable restriction that is recognized under Section 422, 422.5, or 402.1 and is legally established by statute, regulation, or any action or classification by a governmental entity, for the benefit of wildlife, endangered species, or their habitats.
(Amended by Stats. 2002, Ch. 616, Sec. 39. Effective January 1, 2003.)

§ 423.9. Land which is zoned as timberland production pursuant to Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5 of the Government Code and which is not under an open-space contract pursuant to Section 51240 of the Government Code shall be valued pursuant to Section 435.
(Amended by Stats. 1982, Ch. 1489, Sec. 35.)

§ 424. Parties to existing agreements and scenic easement deeds may modify such agreements and deeds to the requirements of Section 422.
(Added by Stats. 1967, Ch. 1711.)

§ 426. (a) Notwithstanding any provision of Section 423 to the contrary, if either the county, city, or nonprofit organization or the owner of land subject to contract, agreement, scenic restriction, or open-space easement has served notice of nonrenewal as provided in Section 51091, 51245, or 51296.9 of the Govern-

ment Code, and the county assessors shall, unless the parties shall have subsequently rescinded the contract pursuant to Section 51254 or 51255 of the Government Code, value the land as provided in this section.

(b) If the owner of land serves notice of nonrenewal or the county, city, or nonprofit organization serves notice of nonrenewal and the owner fails to protest as provided in Section 51091, 51245, or 51296.9 of the Government Code, subdivision (c) shall apply immediately. If the county, city, or nonprofit organization serves notice of nonrenewal and the owner does protest as provided in Section 51091, 51245, or 51296 of the Government Code, subdivision (c) shall apply when less than six years remain until the termination of the period for which the land is enforceably restricted.

(c) Where any of the conditions in subdivision (b) apply, the board or assessor in each year until the termination of the period for which the land is enforceably restricted shall do all of the following:

(1) Determine the value of the land pursuant to Section 110.1. If the land is not subject to Section 110.1 when the restriction expires, the value shall be determined pursuant to Section 110 as if it were free of contractual restriction. If the land will be subject to a use for which this code provides a special restricted assessment, the value shall be determined as if it were subject to the new restriction.

(2) Determine the value of the land by capitalization of income as provided in Section 423 and without regard to the existence of any of the conditions in subdivision (b).

(3) Subtract the value determined in paragraph (2) of subdivision (c) by capitalization of income from the full value determined in paragraph (1).

(4) Using the rate announced by the board pursuant to paragraph (1) of subdivision (b) of Section 423, discount the amount obtained in paragraph (3) for the number of years remaining until the termination of the contract, agreement, scenic restriction, or open-space easement.

(5) Determine the value of the land by adding the value determined by capitalization of income as provided in paragraph (2) and the value obtained in paragraph (4).

(6) Apply the ratio prescribed in Section 401 to the value of the land determined in paragraph (5) to obtain its assessed value.

(Amended by Stats. 2003, Ch. 62, Sec. 274. Effective January 1, 2004.)

§ 427. Nothing in this article shall prevent the board or the assessor, in valuing open-space land for assessment purposes from taking into consideration the existence of any mines, minerals and quarries in or upon the land being valued, including, but not limited to oil, gas, and other hydrocarbon substances.
(Added by Stats. 1969, Ch. 862.)

§ 428. The provisions of this article shall not apply to any residence, including any agricultural laborer housing facility as provided for in Sections 51220, 51231, 51238, and 51282.3 of the Government Code, on the land being valued or to an area of reasonable size used as a site for such a residence.
(Amended by Stats. 1985, Ch. 186, Sec. 11.2.)

§ 429. Notwithstanding the provisions of Section 105(b) of this code, in valuing land enforceably restricted pursuant to this article, fruit-bearing or nut-bearing trees and vines on the land and not exempt from taxation shall be valued as land. Any income shall include that which can be expected to be derived from such trees and vines and no other value shall be given such trees and vines for the purpose of assessment.
(Amended by Stats. 1974, Ch. 311.)

§ 430. There shall be a rebuttable presumption that the present use of open-space land which is enforceably restricted and devoted to agricultural use is its highest and best agricultural use.
(Added by renumbering Section 431 by Stats. 1976, Ch. 176.)

§ 430.5. No land shall be valued pursuant to this article unless an enforceable restriction meeting the requirements of Section 422 is signed, accepted, and recorded on or before the lien date for the fiscal year to which the valuation would apply. To provide counties and cities with time to meet the requirement of this section, the land that is to be subject to a contract shall have been included in a proposal to establish an agricultural preserve submitted to the planning commission or planning department, or the matter of accepting an open-space easement or scenic restriction shall have been referred to that commission or department on or before October 15 preceding the lien date to which the contract, easement or restriction is to apply.
(Amended by Stats. 1997, Ch. 941, Sec. 11. Effective January 1, 1998.)

CALIFORNIA CODE OF REGULATIONS

TITLE 14. NATURAL RESOURCES

DIVISION 2. Department of Conservation

CHAPTER 6. Office of Land Conservation

Article 1. California Farmland Conservancy Program

§ 3000. Definitions
All terms used in these regulations shall have the same meaning as provided in Public Resources Code sections 10210 through 10223.
Authority: Section 10240(b), Public Resources Code. Reference: Sections 10200-10277, Public Resources Code.

§ 3010. Eligibility
A real estate appraisal pursuant to Public Resources Code section 10260 must be completed prior to acting upon any grant application under the Agricultural Land Stewardship Program (ALSP) involving the acquisition of interests in real property. The cost of the appraisal is to be borne by the applicant. However, if the applicant is successful in obtaining a grant, the cost of the appraisal shall be considered a direct cost pursuant to Public Resources Code section 10231 and may be reimbursed at the discretion of the Director, based upon the fiscal considerations of a specific project.
Authority: Section 10240(b), Public Resources Code. Reference: Section 10231, Public Resources Code.

§ 3011. Local Government Support for Agricultural Land Conservation
In meeting the requirement of Public Resources Code section 10244, a local government shall include a summary of any specific actions taken in support of its stated goals and objectives for agricultural land conservation, including but not limited to specific planning and zoning decisions that have been taken that demonstrate this commitment.
Authority: Section 10240(b), Public Resources Code. Reference: Section 10244, Public Resources Code.

§ 3012. Potential Easement Impacts upon Neighboring Lands
In considering the selection criteria for ALSP applicants, information providing evidence that, by acquisition of an agricultural conservation easement for a given parcel or parcels, long term conservation of neighboring lands through any combination of geographic, zoning, or other considerations can logically be expected without incurring costs of additional easement acquisitions, will be considered pursuant to Public Resources Code section 10252(l).
Authority: Section 10240(b), Public Resources Code. Reference: Section 10252(l), Public Resources Code.

§ 3013. Temporary Purchase of Fee Interests
An applicant for funding of a temporary purchase of a fee interest in anticipation of creating an agricultural conservation easement pursuant to Public Resources Code section 10239 shall satisfy the criteria otherwise

applicable to easements as provided in this chapter as well as the Agricultural Lands Stewardship Program Act of 1995.
Authority: Section 10240(b), Public Resources Code. Reference: Sections 10239, 10251 and 10252, Public Resources Code.

§ 3014. Easement Enforcement
Agricultural conservation easements funded through this program shall provide that in the event the holder of the easement fails to enforce any of the terms of the easement, as determined in the sole discretion of the Director of the Department, the Director of the Department and his or her successors and assigns shall have the right to enforce the terms of the easement, including limits on significant impairment of agricultural productivity and multiple uses created by incidental activities as specified in Public Resources Code section 10262. Multiple uses shall be those as defined in Public Resources Code section 10252(b).
Authority: Section 10240(b), Public Resources Code. Reference: Section 10262, Public Resources Code.

§ 3015. Easement Transfer
Agricultural conservation easements funded through this program shall provide that in the event that a local government or nonprofit organization holding an easement that was acquired with the use of ALSP funds is dissolved, the Department shall identify and select an appropriate public or private entity to whom the easement shall be transferred pursuant to Public Resources Code section 10235(b). In cases where the easement was acquired utilizing ALSP funds as well as funds from other sources, the Department shall work with the other contributing sources to identify and select an appropriate entity to whom the easement shall be transferred.
Authority: Section 10240(b), Public Resources Code. Reference: Section 10235(b), Public Resources Code.

Article 2. Solar-Use Easements

§ 3100. Solar-Use Easement Consultation Fee

(a) At the time that a proposed solar-use easement application is submitted to the Department of Conservation (Department) for consultation as provided in Government Code section 51191, the landowner who is seeking the solar-use easement shall pay the Department of Conservation an application fee.

(b) The application may be submitted and fee paid in accordance with either the option provided by subdivision (b)(1) or the option provided by subdivision (b)(2):

(1) The landowner may submit the entire application and pay the entire fee of $7,100 at one time.

(2) The landowner may submit the application and pay the fee in two increments. The first increment of the fee shall be $4,900 to cover the Department's cost to determine whether the site is eligible for a solar-use easement. If the Department determines that a site is eligible for placement into a solar-use easement, the landowner may proceed with their application and shall pay the second increment of the application fee. The second increment shall be $2,200 to cover the Department's cost to review and comment upon the management plan required by Government Code section 51191(c).

(c) In either option, the total application fee shall be $7100.00.
Authority: Sections 51191 and 51191.8, Government Code. Reference: Section 51191, Government Code.

§ 3101. Definitions

(a) For the purposes of this article, the following definitions shall apply:

(1) A "solar-use easement project" and "project" shall mean all land and photovoltaic panels and foundations, and other installations, facilities, buildings, accessory structures, or other improvements to the land that are related to the photovoltaic generation of electricity on land that is or has been proposed to be placed into a solar-use easement.

(2) A "solar-use easement landowner" shall mean "landowner" as that term is defined in Government Code Section 51190, and any person or entity who owns, or has leased, or is a trustee as provided in that statute, of land that is, or has been proposed to be, placed into a solar-use easement.

(3) "Solar-use easement land" shall mean the land that is or has been proposed to be placed into a solar-use easement.

(4) "Solar-use easement statutes" shall mean chapter 6.9 (commencing with section 51190), of part 1, of division 1 of title 5 of the Government Code.

(5) "Applicant" means any person or entity who applies for a solar-use easement; applicants include landowners who propose to develop, construct, supervise, manage, or own a solar-use easement project.

(6) "Solar-use easement amendment" shall mean any modification to the provisions of a solar-use easement that changes all or any provision regarding a use, a management plan, or a restoration plan that has been allowed or required by the solar-use easement on the solar-use easement project site.

Authority: Section 51191.8, Government Code. Reference: Sections 51190, 51191, 51191.1 and 51191.3, Government Code.

§ 3102. Application for, and Documents Regarding, a Solar-Use Easement

(a) All documents regarding an application, amendment, or any other matter related to a solar-use easement shall be submitted by the landowner to the city or county party to the Williamson Act or farmland security zone contract. Upon receipt of the foregoing documents, the city or county shall forward the documents to the Department in accordance with these regulations.

(b) An application for a solar-use easement and all supporting documents shall be submitted by a landowner to the city or county that is the party to the Williamson Act or farmland security zone contract. Upon receipt by the city or county, if the city or county will consider approval of the application, the city or county shall forward the application and all supporting documents to the Department. The city or county shall first submit the request for eligibility determination and the application and supporting documents to the Department pursuant to Government Code section 51191. If the Department determines that the landowner is eligible for a solar-use easement and the city or county proposes to approve or accept the solar-use easement, then the city or county shall forward all additional application and supporting documents to the Department for review and comment.

(c) An application to determine eligibility for a solar-use easement shall include the following:

(1) The project name or number (if any is assigned).

(2) A list of the parcel numbers located within the proposed solar-use easement.

(3) The total number of acres currently under the Williamson Act contract or contracts proposed to be rescinded for entry into the proposed solar-use easement.

(4) A location map of the solar-use easement site, including parcel boundaries and individual field locations.

(5) A current farmland designation map indicating whether the solar-use easement land is prime farmland, unique farmland, farmland of statewide importance, farmland of local importance, grazing land, urban and built-up land, or "other land" as defined by the Department's Farmland Mapping and Monitoring Program as of January 1, 2010, or the most recent map released by the Farmland Mapping and Monitoring Program.

(6) The project start date, its projected life, and its projected energy production.

(7) A written narrative describing the facts that are being used to support the eligibility application, as required by section 3103 of this article.

(8) To the extent applicable, any information outlined in sections 3104 through 3107 of this article, that supports the application for eligibility.

Authority: Section 51191.8, Government Code. Reference: Sections 51191 and 51255.1, Government Code.

§ 3103. Written Narrative Regarding Eligibility Based On Soil, Chemical, or Physical Properties

(a) An application shall include a written narrative factually demonstrating that, even under the best currently available cultivation and management practices, continued agricultural use of the proposed solar-use easement area is substantially limited due to chemical or physical properties of the soils found on the site. The narrative shall include:

(1) Reference to USDA NRCS soil survey information for the proposed easement area, including:

(A) A soil map that clearly delineates the soil mapping units found on the site.

(B) The land capability classification, indicating whether the land is irrigated or non-irrigated, for each soil mapping unit.

(C) The soil survey description of the primary physical or chemical limitation(s) to agricultural use for each soil mapping unit.

(2) The existing agricultural use(s) on the solar-use easement site.

(3) A discussion of the typical cultivation and management practices used to carry out the uses described in (b) above.

(4) The existing agricultural conditions in the surrounding area and county.

(5) A discussion of the best currently available agricultural management practices and an explanation as to whether one or a combination thereof would allow continued agricultural production on the project site.

Authority: Section 51191.8, Government Code. Reference: Section 51191, Government Code.

§ 3104. Soil Test Report

(a) If the eligibility application is based on soils with significantly reduced agricultural productivity or severely adverse soil conditions detrimental to continued agricultural activities and production, the application shall include factual data specific to the site's soil conditions to support the eligibility, including:

(1) A soil test report and/or a soil survey demonstrating that the present characteristics of the soil significantly reduce the soil's agricultural productivity. The soil test report or survey shall have been conducted by a certified soil scientist or certified professional soil classifier.

(2) The soil test report shall include the name, employer, date of licensure, and contact information of the certified soil scientist or certified professional soil classifier who conducted the soil test.

(3) All soil samples utilized in the soil test report shall be taken from the land proposed for the solar-use easement. The soil test report shall include a map that shows the locations on the solar-use easement land where the soil samples were taken.

(4) The soil test shall be conducted no more than one (1) year prior to submission of the application for a solar-use easement.

Authority: Section 51191.8, Government Code. Reference: Section 51191, Government Code.

§ 3105. Water Availability Analysis

(a) If the eligibility application is based upon insufficient water availability, the application shall include an analysis of water availability demonstrating the insufficiency of water supplies for continued agricultural production and shall indicate the source or sources of water used for agricultural production on the proposed solar-use easement land. This analysis shall include factual data specific to the site's water availability conditions to support eligibility, including, as applicable, one or more of the following:

(1) The source or sources of surface water used for agricultural production on the solar-use easement land including the number of acre feet delivered and applied for each of the immediately preceding six (6) years.

(2) A characterization of the groundwater available to the solar-use easement land including the well depth, the amount of groundwater applied, the groundwater fluctuation over the immediately preceding six (6) years, and saline water depths.

(3) A description of any dryland farming on the solar-use easement land.

Authority: Section 51191.8, Government Code. Reference: Section 51191, Government Code.

§ 3106. Water Quality Analysis

(a) If the eligibility application is based upon an assertion that the soil is marginally productive or physically impaired as a result of the quality of water available to the solar-use easement land, the application shall include an analysis of water quality demonstrating that continued agricultural production would, under the best currently available management practices, be significantly reduced. The analysis shall include factual data specific to the water quality conditions available to the site to support the eligibility, including, as applicable:

(1) A qualitative description of surface water source(s) that is focused on chemical content and other constituents with the potential to impact agricultural productivity.

(2) A qualitative description of groundwater that is focused on chemical content and other constituents with the potential to impact agricultural productivity.

(3) A description of water source blending, pre-treatment, and other techniques used to mitigate water quality issues, and the limitations of such techniques specific to the site.

Authority: Section 51191.8, Government Code. Reference: Section 51191, Government Code.

§ 3107. Crop and Yield Information

(a) If the eligibility application is based upon an assertion that the soil is marginally productive or physically impaired in a manner that has impacted crop yield, the application shall include factual data specific to the site's crop and yield for the immediately preceding six (6) years. The crop and yield information for cultivated lands shall include:

(1) Annual cropping history and yields, by parcel and individual field location, over the immediately preceding six (6) years, as indicated on the map of the proposed solar-use easement area submitted pursuant to section 3102(c)(4) of this article.

(2) A comparison of crop yield information for the site against average crop yields for the same crop on a county basis. County-level data may be acquired from the county agricultural commissioner's office.

(3) If applicable, supporting information in the form of crop insurance or disaster assistance approvals may be provided as evidence of crop and yield impacts.
Authority: Section 51191.8, Government Code. Reference: Section 51191, Government Code.

§ 3108. Soil Management and Site Restoration

(a) Upon the Department's determination that the site proposed for a solar-use easement is eligible, the landowner shall submit a proposed soil management and site restoration plan to the city or county that describes the site including the information required by section 3102. The plan shall describe how the soil will be managed and protected for future agricultural use during the life of the easement, provide for site restoration, and describe how impacts to adjacent agricultural operations will be minimized. The city or county shall forward the proposed management plan to the Department. A management plan shall consist of two components, a soil management component and a site restoration component.

(1) The soil management component shall include a description of the soil management practices to be utilized on the solar-use easement land including:

(A) The construction activities, including, but not limited to soil grading and its effect on the current condition of the easement's soils.

(B) Soil management during the life of the easement, including, as applicable, but not limited to:

1. Soil erosion protection;
2. Concurrent grazing activities;
3. Irrigation;
4. Maintenance activities.

(C) The effect of soil removal activities, if any, upon the condition of the easement's soils.

(2) The site restoration component shall include a plan that describes how the solar-use easement land will be restored to the same condition that existed at the time of approval or acceptance of the solar-use easement, at the termination of the easement, which shall include:

(A) The procedures to be used to restore the site, which may include but is not limited to re-grading and storage and removal of structures and equipment.

(B) The provisions for monitoring the progress of restoration of the site, until restoration is complete and financial assurances are released.

(b) If the landowner or project operator proposes to change or expand the project in such a way that an existing, approved management plan would no longer be adequate to ensure restoration of the solar-use easement land, the solar-use easement landowner shall submit, for approval by the city or county, a proposed amendment to the approved management plan. The amended plan shall be adequate to ensure the restoration of the solar-use easement land to the same condition that existed immediately prior to the time of project approval, upon termination of the easement.

(c) At any time that the solar-use easement landowner, the city, or the county determines that the solar-use easement land cannot be restored in accordance with the approved management plan because of new information that was not available when the permit was issued, a solar-use easement landowner shall submit a proposed amendment to the site restoration component of the management plan. The amended plan shall be adequate to ensure the restoration of the solar-use easement land to the same condition that existed immediately prior to the time of project approval, upon termination of the easement.
Authority: Section 51191.8, Government Code. Reference: Sections 51191, 51191.3, and 51192.1, Government Code.

§ 3109. Additional Requirements

(a) If the Department determines, in consultation with the Department of Food and Agriculture, that lands are eligible to be included in a solar-use easement, the city or county shall:

(1) Include, as conditions of approval or acceptance of the solar-use easement and as requirements of the easement, all recommendations regarding the soil management plan that are made by the Department; and

(2) Require implementation of the soil management plan.

(b) A county or city may require that a solar-use easement include additional restrictions, conditions, or covenants that the county or city determines are necessary or desirable to restrict the use of the land to photovoltaic solar facilities. Those restrictions, conditions, or covenants may include:

(1) Mitigation measures on the land that is subject to the solar-use easement.

(2) Mitigation measures beyond the land that is subject to the solar-use easement.

(3) If deemed necessary by the county or city to ensure that decommissioning requirements are met for perpetual easements, provisions for financial assurances to fund restoration of the solar-use easement land to the same conditions that existed before the approval or acceptance of the easement by the time the easement terminates.

Authority: Section 51191.8, Government Code. Reference: Sections 51191, 51191.3, and 51192.1, Government Code.

§ 3110. Site Inspections

(a) Solar-use easement landowners and project operators must allow cities and counties to inspect lands that have been placed into a solar-use easement and all structures and activities taking place thereon. The inspections are subject to the following conditions:

(1) Inspection of a solar-use easement may be conducted to determine whether the solar-use easement and the operations thereon have violated any requirements of the solar-use easement statutes, this article, and the easement's soil management and restoration plan.

(2) Upon completion of an inspection, an inspection report shall be generated by the city or the county. The inspection report shall include the matters described in subdivision (a)(1), and any other reports or documents prepared by the inspector or inspection team regarding the solar-use easement. The completed inspection report, along with any statement by the city or county regarding the status of compliance of the project, shall be provided to the Department and the solar-use easement landowner within 30 days of completion of the inspection.

Authority: Section 51191.8, Government Code. Reference: Sections 51191, 51191.1, 51191.3, 51191.5, and 51192.1, Government Code.

§ 3111. Restoration Security Amount

(a) For perpetual easements, cities and counties may require financial security for restoration of the solar-use easement land in whatever amount that the city or county deems necessary to ensure restoration of the solar-use easement land will be accomplished in accordance with Government Code section 51191.3(b)(3), the approved soil management plan, and with this article.

(b) For term easements and self-renewing easements, landowner applicants shall post a restoration security instrument in an amount that complies with the provisions of this section. The restoration securities shall be in an amount determined by the city or county to be adequate to fund the restoration of the ease-

ment land to the same conditions that existed immediately preceding the approval or acceptance of the easement by the time that the easement terminates. The restoration security instrument shall be in effect at the commencement of the project and remain in force at all times until the bond or restoration security instrument is released by the city or county.

(c) The performance bond or other restoration security required by subdivision (b) shall be sufficient to cover all restoration costs. "Restoration costs" shall include all costs calculated to be incurred to restore the solar-use easement land to the same condition that existed at the time of approval or acceptance of the easement and in accordance with the approved management and restoration plan, including, to the extent applicable:

(1) The cost of the physical activities and materials necessary to implement the approved management plan, including:

(A) Re-grading;

(B) Re-vegetation, including monitoring;

(C) Labor and supervision;

(D) Equipment;

(E) Mobilization and transportation;

(F) Removal and disposal of buildings, structures, and equipment;

(G) Soil tests;

(H) Fencing;

(I) Liability insurance;

(J) Any other necessary restoration procedures.

(2) The city's or county's costs and costs for third party contracting for each of the activities required by the soil management and restoration plans.

(3) A contingency amount not to exceed 10 percent of the restoration costs.

(4) The calculated amount shall not include the cost of completing construction or continued operation of the solar project on the solar-use easement land.

(d) It shall be the sole responsibility of the solar-use easement landowner to provide the city or county with sufficient information to demonstrate that the amount of restoration security is adequate to restore the solar-use easement lands in accordance with the approved management plan and the requirements of Government Code section 51191.3(c).

(e) The restoration security shall be submitted to the city or county who shall review and approve the security prior to the commencement of operations on the project site.

(f) The security shall be made payable to the city or county in which the project is located.

(g) The amount and validity of the restoration security shall be reviewed by the landowner no less often than once every five years, with the review submitted to the city or county for approval; the city or county may require more frequent review if the city or county determines that more frequent review is necessary to ensure compliance with the requirements of the solar-use easement.

Authority: Sections 51191.3 and 51191.8, Government Code. Reference: Sections 51191 and 51191.3, Government Code.

§ 3112. Restoration Security Instruments

(a) If a city or county requires restoration security pursuant to Government Code section 51191.3(b)(3) and section 3111(a) of this article, the city or county shall determine what type, and the amount, of financial assurances or financial instruments the landowner shall provide to ensure that restoration of the

easement land is performed in accordance with the approved soil management plan and Government Code section 51191.3(b)(3).

(b) For term easements and self-renewing easements, "restoration security" shall mean an instrument, fund, or other form of financial assurance as required by Government Code 51191.3(c) and 3111(b) and (c), and may take the form of any one or a combination of the following, which the city or county determines are adequate to perform restoration in accordance with Government Code section 51191.3(c) and the approved soil management plan:

(1) Performance bonds;

(2) Surety bonds;

(3) Irrevocable letters of credit;

(4) Trust funds;

(5) A corporate guarantee;

(6) Other forms of financial securities, approved by the city or county, to be adequate to ensure restoration of the solar-use easement land to the same condition that existed at the time of approval or acceptance of the easement.

(c) If restoration security is required, the amount of the restoration security shall be that amount of money sufficient to cover restoration costs as that term is defined in section 3111(c) of this article. The city or county shall submit a copy of the proposed restoration security and the documentation relied upon in calculating the amount of the proposed restoration security to the Department. The Department may review, comment, and make recommendations upon the proposed restoration security amount and documentation.

(d) Restoration security shall constitute an obligation to pay by the landowner.

Authority: Sections 51191.3 and 51191.8, Government Code. Reference: Sections 51191 and 51191.3, Government Code.

§ 3113. Reduction or Release of Restoration Security

(a) For perpetual easements, the city or county may determine whether and when a restoration security may be reduced or released.

(b) For term easements or self-renewing easements, prior to the reduction or release of a restoration security instrument, the city or county shall provide the following to the Department:

(1) An inspection report supported by facts indicating that the condition of the solar-use easement land has changed to a degree that reduction of the existing restoration security may be made without compromising the ability of the city or county to restore the solar-use easement land.

(2) A revised restoration security cost estimate prepared by the landowner and accepted by the city or county, with supporting facts and documentation, indicating the specific cost changes supporting reduction to the existing restoration security amount.

(3) If the city or county proposes release of the restoration security, they must make findings supported by facts and documentation that shall include the most recent inspection report and any other reviews prepared as part of the inspection report, indicating that the solar-use easement land has been restored in accordance with the approved soil management and restoration plan and that there are no outstanding restoration liabilities.

(c) The Department may review, comment, and make recommendations upon a proposed reduction or release of restoration security.

Authority: Sections 51191.3 and 51191.8, Government Code. Reference: Sections 51191 and 51191.3, Government Code.

§ 3114. Amendment Fee

If authorized by the city or county, a landowner may amend their solar-use easement. Amendments shall be subject to the same requirements as an initial application. If a landowner submits a proposed amendment to a solar-use easement management or restoration plan, the landowner shall pay the Department the reasonable cost to review the proposed amendment to the plan. The amendment fee shall not exceed the costs incurred by the Department to review the proposed amendment or the $2,200 assessed for initial management plan review by section 3100(b)(2) of this article.

Authority: Sections 51191.3 and 51191.8, Government Code. Reference: Section 51191.3, Government Code.

§ 3115. Forfeiture of Restoration Security

(a) In addition to an action to enforce the terms of a solar-use easement, a city or county may require forfeiture of restoration security when any of the following circumstances has occurred:

(1) The city or county determines that a solar-use easement landowner is financially incapable of performing restoration in accordance with the approved management plan.

(2) A landowner has not completed restoration in compliance with the approved management plan for the solar-use easement by the time the easement terminates.

(3) A landowner has failed to provide the city or county with a revised restoration security cost estimate as required by section 3111(g) that adequately addresses the criteria contained in this article within 30 days of receipt of notification from the city or county to provide a revised cost estimate.

(4) An acceptable restoration security instrument will lapse within 30 days and the landowner has not provided evidence satisfactory to the city or county that another restoration security instrument will take effect before the security lapses.

(5) If the restoration security coverage is not, according to the city or the county, adequate to ensure restoration of the solar-use easement lands in accordance with the approved soil management plan and the landowner has not provided evidence satisfactory to the city or county with substitute or additional security within 30 days' notice from the city or county.

Authority: Sections 51191.3 and 51191.8, Government Code. Reference: Sections 51191 and 51191.3, Government Code.

§ 3116. Criteria for Determining Financial Capability

(a) For term easements or self-renewing easements, the city or county shall determine that a solar-use easement landowner does not have the financial capability to perform restoration of the solar-use easement land if the city or county can make either finding located in subdivision (a)(1) or (b)(2) below. The city or county may also utilize other relevant facts to determine whether the solar-use easement landowner has the financial capability to perform site restoration. A solar-use easement landowner shall provide the city or county with any and all information requested by any of those agencies to ascertain the landowner's financial capability. A landowner shall be found financially incapable if the city or county makes either of the following findings:

(1) The landowner has not provided restoration security in an amount deemed adequate by the city or county.

(2) The landowner has not provided a restoration security instrument that has been approved by the city or county as required by in Section 3112 of this article.

Authority: Sections 51191.3 and 51191.8, Government Code. Reference: Sections 51191 and 51191.3, Government Code.

§ 3117. Procedure for Forfeiture of Restoration Security - Public Hearing
If under sections 3115 and 3116 the city or county determines that the restoration security shall be forfeited, the landowner shall be provided a public hearing prior to the forfeiture.
Authority: Sections 51191.3 and 51191.8, Government Code. Reference: Sections 51191 and 51191.3, Government Code.

DIVISION 6. Resources Agency

CHAPTER 3. Guidelines for Implementation of the California Environmental Quality Act

Article 3. Authorities Granted to Public Agencies by CEQA

§ 15044. Authority to Comment
Any person or entity other than a responsible agency may submit comments to a lead agency concerning any environmental effects of a project being considered by the lead agency.
Authority: Section 21083, Public Resources Code. Reference: Sections 21000, 21001, 21002.1, 21104 and 21153, Public Resources Code.

Article 13. Review and Evaluation of EIRs and Negative Declarations

§ 15206. Projects of Statewide, Regional, or Areawide Significance
(a) Projects meeting the criteria in this section shall be deemed to be of statewide, regional, or areawide significance.
(1) A draft EIR or negative declaration prepared by any public agency on a project described in this section shall be submitted to the State Clearinghouse and should be submitted also to the appropriate metropolitan area council of governments for review and comment. The notice of completion form required by the State Clearinghouse must be submitted together with the copies of the EIR and may be submitted together with the copies of the negative declaration. The notice of completion form required by the State Clearinghouse is included in Appendix C. If the lead agency uses the on-line process for submittal of the notice of completion form to the State Clearinghouse, the form generated from the Internet shall satisfy this requirement (refer to www.ceqanet.ca.gov).
(2) When such documents are submitted to the State Clearinghouse, the public agency shall include, in addition to the printed copy, a copy of the document in electronic format on a diskette or by electronic mail transmission, if available.
(b) The lead agency shall determine that a proposed project is of statewide, regional, or areawide significance if the project meets any of the following criteria:
(1) A proposed local general plan, element, or amendment thereof for which an EIR was prepared. If a negative declaration was prepared for the plan, element, or amendment, the document need not be submitted for review.
(2) A project has the potential for causing significant effects on the environment extending beyond the city or county in which the project would be located. Examples of the effects include generating

significant amounts of traffic or interfering with the attainment or maintenance of state or national air quality standards. Projects subject to this subdivision include:

(A) A proposed residential development of more than 500 dwelling units.

(B) A proposed shopping center or business establishment employing more than 1,000 persons or encompassing more than 500,000 square feet of floor space.

(C) A proposed commercial office building employing more than 1,000 persons or encompassing more than 250,000 square feet of floor space.

(D) A proposed hotel/motel development of more than 500 rooms.

(E) A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or encompassing more than 650,000 square feet of floor area.

(3) A project which would result in the cancellation of an open space contract made pursuant to the California Land Conservation Act of 1965 (Williamson Act) for any parcel of 100 or more acres.

(4) A project for which an EIR and not a negative declaration was prepared which would be located in and would substantially impact the following areas of critical environmental sensitivity:

(A) The Lake Tahoe Basin.

(B) The Santa Monica Mountains Zone as defined by Section 33105 of the Public Resources Code.

(C) The California Coastal Zone as defined in, and mapped pursuant to, Section 30103 of the Public Resources Code.

(D) An area within 1/4 mile of a wild and scenic river as defined by Section 5093.5 of the Public Resources Code.

(E) The Sacramento-San Joaquin Delta, as defined in Water Code Section 12220.

(F) The Suisun Marsh as defined in Public Resources Code Section 29101.

(G) The jurisdiction of the San Francisco Bay Conservation and Development Commission as defined in Government Code Section 66610.

(5) A project which would substantially affect sensitive wildlife habitats including but not limited to riparian lands, wetlands, bays, estuaries, marshes, and habitats for endangered, rare and threatened species as defined by Section 15380 of this Chapter.

(6) A project which would interfere with attainment of regional water quality standards as stated in the approved areawide waste treatment management plan.

(7) A project which would provide housing, jobs, or occupancy for 500 or more people within 10 miles of a nuclear power plant.

Authority: Section 21083, Public Resources Code. Reference. Section 21083, Public Resources Code.


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